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THE PARLIAMENT OF THE REPUBLIC OF CHINA[1]

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A study of the history of China would serve to reveal the fact that notwithstanding the great duration of Chinese political life there has been comparatively speaking little change in the political organization of the country. With the exception of the abolition of, to use a European expression, the "feudal system" which existed for several centuries before about 200 B. C., Chinese history presents no instance of any important change in political forms.

The character of the political organization which existed both prior and subsequent to the abolition of this "feudal system" was absolute monarchy, what is sometimes called autocracy. In this respect China differed little if any from other Asiatic peoples, whose great contribution to the political development of the human race has been the conception of an all powerful king or monarch in whom all the functions of government were concentrated.

As opposed to oriental peoples the nations of the occident have from an early period in their history sought to establish a form of government which accorded rights of participation in

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political action to the people in the state. The early history of both Greece and Rome offers many examples of more or less popular assemblies, which possessed all governmental power. Among other things they had the right to choose in one way or another those persons to whom was to be entrusted for short periods the power to take the action in particular cases which was necessary for the continuance of the life of the state. These persons, however, were regarded as possessing only delegated power. They were agents of the people as a whole, who were the real permanent possessors of political authority.

This form of popular government was the contribution which European peoples made to the political organization of mankind. It was, however, a form of government which was unsuited to the conditions existing in early Europe. It was necessarily applicable only to small communities, for the amount of coöperation which was necessary to its success was so great that it was impossible with the then means of intercourse and communication to secure it except in small reasonably compact and homogeneous societies.

When Asiatic and European political forms came into competition the latter succumbed in the struggle and the oriental conception of an all powerful king was universally adopted in Europe. The triumph of oriental political ideas in Europe was, however, only temporary. There soon sprang up everywhere throughout Europe in the states mainly of Teutonic origin which established themselves upon the ruins of the great Roman Empire, assemblies representative of the important economic elements in those states, which exercised quite an influence on the actions of the king.

These assemblies were based on different principles from those which lay at the foundation of the original European popular assemblies. In the first place they were representative in character. The early European popular assemblies were not representative of the people. They were the people. That is, while under the original European scheme all the people came to the assemblies and themselves took such action as they saw fit, the new assemblies were in large measure composed of persons

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who represented specific classes of the people and who were chosen by them as their representatives. This change from direct democratic rule to representative rule was a change of great importance. For through it, it became possible so to enlarge the limits of states as to make it possible for the representative state to compete on more nearly equal terms with states organized on the Asiatic autocratic principle.

In the second place the new representative states, very largely because of their greater size, were more heterogeneous than had been the case with the early European states. Some provision had to be made for the representation of the various elements in the people. Hence arose a system of class representation. Without an understanding of this system it is difficult if not impossible for us to obtain a correct idea of the origin of modern European representative institutions. We may perhaps take England as an example, since that country is the birthplace of European Constitutional Government. From a very early time in English history we find by the side of the king a body called the Great Council, which consisted of representatives of the great landholders who were summoned by the king to aid him in governing the country. This body the king was accustomed to consult upon all questions of legislation, finance and public policy.

In the latter part of the thirteenth century it was deemed desirable to make this body more representative of the existing economic elements in the nation. The Great Council represented only the large landholders. So during the thirteenth century the attempt was made to summon both representatives of the smaller landholders and of the commercial classes which were becoming increasingly important. This was accomplished by 1295, when what has sometimes been called the "Model Parliament" assembled. To this parliament the king summoned the two archbishops, all of the bishops, and the greater abbots, all dignitaries of the Christian church which had at that time great economic and social power as a result of its large landed possessions and its intimate relations with the daily life of the people. In addition to the dignitaries of the church there were summoned

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also the more important earls and barons, that is the large landholders not a part of the church, while every sheriff, the representative of the king in the county, was ordered to see that two knights were chosen from each county, and two representatives from each city. In the parliament of 1295, when it was convened, there were 2 archbishops, 18 bishops with their lesser clergy, 66 abbots, 3 heads of religious orders, 9 earls, 41 barons, 63 knights and 172 representatives of the cities.

This parliament was thus representative of all the constituent classes of English society. It was composed, as were similar organizations in continental Europe, of the three recognized orders or estates—clergy, nobility and commons—of which, aside from the peasantry, mediaeval society was composed. These orders sat in the Parliament either in person or by deputy.

This parliament, organized originally in this way, in later years was organized in two houses, one called the House of Lords and representing the large landholding class; the other called the House of Commons and representing the common people or such of them as were deemed worthy of representation. It was and was intended to be representative of class and it was only as its powers grew that it lost a great deal of its class representative character and came to be regarded as representative, certainly so far as the House of Commons was concerned, of the nation as a whole.

The result of the development of this form of European representative government has been in the course of the centuries which have followed its adoption, the relegation of the Asiatic principle of the all powerful autocrat to a position of minor importance. In those countries in which the European idea of representative government has been most rigorously applied, the Asiatic idea has been all but abandoned. Such are the republics of the United States and France, where the President, the executive head of the government is elected directly or indirectly by the people and serves for a specified term and exercises only such authority as has been delegated to him by the people. Even in those countries where the monarchical idea has not been absolutely abandoned, the tendency has been to

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place the King in the position of one who reigns but does not govern. This has been accomplished through the device of making the ministers of the crown responsible to the parliament. Germany is the only European country in which the parliament has developed any strength, in which this has not happened. Japan is in somewhat the same position as Germany.

The solution of the problem of government which has been made by European peoples in these latter days must be regarded as a successful one. It is, it will be noticed, in the nature of a combination of the Asiatic idea of an all powerful monarch and of the European idea of representation of the people who are governed. This solution of the problem of government thus combines the Asiatic idea of strength with the European idea of popular coöperation, for through the consolidation of political power in a single executive head capable of effective and far-reaching action this form of government is possible of application to widely extended areas and heterogeneous communities in much the same way as was the Asiatic autocratic principle. On the other hand through the European principle of coöperative popular participation in government, it binds to the government those who are subjected to government.

Just as in the old days the European principle of popular representation when not combined with the Asiatic idea of kingship went down in the shock of the competition of rival political ideas so at the present day the Asiatic idea of kingship when not combined with the European principle of popular representation is unable to stand up against the attack of European institutions. The most prominent characteristic of world history during the last two hundred years has been the subjugation of Asia by Europe. The one Asiatic country which has come out of the contest unscathed is Japan. And Japan is also the one Asiatic country which has made a successful attempt to combine the Asiatic and European political principles in her state organization.

The recent superiority of Europe to Asia cannot of course be attributed entirely to the European form of government. The application of the scientific method to the conduct of life and the extension of education, particularly technical education, have

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undoubtedly done much in increasing European efficiency. At the same time it can not be denied, as President Eliot has pointed out in his recent report on his trip around the world to the "Carnegie Endowment for International Peace," that the insecurity of property and the absence of an impartial administration in countries under autocratic rule have acted unfavorably on the accumulation of capital, without which it is difficult if not impossible for a country to become economically strong. As President Eliot says: "Under such governments taxes are not levied and collected under public law by a responsible administration but are arbitrarily extorted by officials who are expected to fill their own pockets and those of their connections out of the moneys or goods which pass through their hands on the way to the treasury of the despot. A man who makes himself rich, by the intelligent use of his faculties and of such possessions as can be temporarily concealed is liable to be 'squeezed' by the powerful officials of the district in which he lives. When the rich man dies, the property he leaves is liable to be heavily mulcted as it passes to his descendants. Evidently there can be but little accumulation of capital in the hands of a people ruled by such a government." "The idea of equal laws" he adds, "does not comport with autocratic government; but life and property are never secure in the absence of equal laws and of an administration of justice which commands public confidence; and where life and property are not secure capital may not accumulate, the property of one generation cannot be safely transmitted to another, the family bond is deprived of the support which the lawful inheritance of property gives, commerce and manufacturing industries on a large scale cannot be established, and the kind of civilization which has been developed under constitutional government in the nineteenth century is impossible." Furthermore it may be said that under the conditions, which are ordinarily incident to autocratic government, the government secures with difficulty effective coöperation from the people who are governed. They are apt to regard the government with fear and hatred rather than with confidence and affection. They consider it an oppressor and themselves

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the oppressed and where they do not openly oppose it they offer to it a passive resistance which makes efficient government well nigh impossible.

It may therefore be said with safety that one of the great causes of modern European efficiency is the form of government which in the last two or three hundred years has been evolved in most countries possessing European traditions.

The form of government which has been evolved in recent years in most European countries has not only shown itself to be more efficient than Asiatic autocracy, it has also, because of the habits of political coöperation which it has secured, encouraged a general spirit of coöperation among the people which has affected their life along other than political lines. The whole industrial and economic life of European peoples is based upon a degree of effective social coöperation which does not find its counterpart in any Asiatic country not as yet subjected to the influences of European governmental ideas. Just as patriotism lies at the foundation of political coöperation so the sense of trusteeship, what the European law terms fiduciary obligation, lies at the foundation of social non-political coöperation, upon which has been built the great superstructure of all company enterprise. Without this company enterprise the most marked triumphs of European commercial and industrial life would have been impossible.

It may therefore be said that European governmental ideas have shown themselves in the shock and stress of actual life superior to those of Asia. The constitutional government of Europe in its present development has shown itself superior to Asiatic autocracy in making the nations which have enjoyed it both politically independent and economically powerful.

In a number of countries which have had European traditions such as the so-called republics of Central and South America, the attempt has been made to organize parliamentary institutions, but little if any attempt has been made to base them, as European parliamentary institutions were originally based, upon the economic interests of the country. It has been assumed that strong and effective parliaments could be established along

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the latest lines of European political development, that is, that they could be formed in their initial stages out of representatives of districts rather than of interests. The results have almost invariably been unfortunate. Such parliaments have seldom if ever developed any strength. They have not had their roots in the economic life of the people. They have been composed merely of representatives of heterogeneous masses of people who have not been conscious of any common interests. Not really representing anything in the national life, they have not been able to exercise any effective control over those who have in their hands the actual power.

As the governments of these countries had their origin in revolutions which overthrew the king by whom they were formerly ruled, these countries have experienced during the century of their existence the disadvantages of autocratic government without any of the advantages which attach to an hereditary autocracy. An hereditary autocracy has the great advantage of securing to the country the freedom from the disturbances which are attendant upon a change of rulers, where the rule of succession has not been clearly established and is not practically universally recognized.

China has been spared many of the evils which have been during the last century incessant to government in South and Central America. Although during the last two thousand years she has changed her dynasties, as a result of either domestic rebellion or foreign conquest, once in every three or four hundred years, she has not attempted in the past on the occasion of the overthrow of a dynasty to set up a so-called republic but has been content to accept as her form of government what has been spoken of as hereditary autocracy.

Within the last two years, however, China has departed from her traditions and has attempted to establish a republic. This attempt has been made, however, without any such experience as most European countries have had in parliamentary government. In other words the attempt has been made to establish a republic before the foundations have been laid for a parliament. China therefore is in much the same position as were the South

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American countries when they threw off the yoke of the Spanish absolute monarchy. China is liable, if her position is not clearly apprehended, to pass through the same unfortunate experiences which have been characteristic of recent South American political life, and which find their most notable manifestation in the occurrences now taking place in Mexico. For, while it is perfectly possible here in China to establish a temporary autocracy under the name of a republic, it is difficult if not impossible to establish an hereditary autocracy. Royal families are not produced in a day. Furthermore, the leaven of western European political ideas has been so busy at work in China that the establishment of hereditary autocracy is now more difficult than it formerly would have been. It must therefore be admitted that China must choose between a succession of temporary dictatorships, accompanied by all the evils which are incident to a change of political power under these conditions, and the establishment of some form of representative government which is suited to her needs. In other words the choice must be made between on the one hand what is in the long run probably the worst form of government which a country can have, namely a military dictatorship with no fixed rule of succession except that of force, and on the other hand some sort of parliamentary government. China's relations to foreign powers make the choice of a military dictatorship a perilous one from the point of view of her political independence, for the disturbances which usually accompany that form of government will be liable to invite foreign intervention.

If the choice which is made is, as it undoubtedly should be, in favor of representative government it must be acknowledged at the outset that the task which will have to be undertaken is not an easy one, and that its immediate accomplishment may not be expected. For the establishment of such a form of government in the conditions which exist at the present time in the country is much less easy than the establishment of a temporary dictatorship. But the man or men who set themselves to this work will, if successful, make for themselves a name which few persons ever have the good fortune to leave behind them. They will also

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have participated in conferring benefits upon their country whose value will be inestimable.

How now should they go to work? It may be said at once that they cannot be successful unless they secure the coöperation of that portion of the Chinese people which counts for something in the life of the nation. It is possible through the use of force to establish a temporary dictatorship, but it is impossible to establish a form of representative government in a country in which the leading people do not wish to be represented.

It may be said also that little aid in the solution of this problem can be obtained from the experience of European countries in the immediate past. A study of modern European political institutions is of little value since they all have their roots in a past which is quite different from that of China and owe such success as they may have to the fact that they are in more or less accord with the economic and social conditions of the country in which they are to be found. Such value as China may find in a study of European political institutions must come rather from the study of their past development. For it may be that the study of that development will reveal the fact that at one time conditions in European countries were similar to, if not identical, with the conditions now existing in China. So far as this is the case, there is a presumption that what suited European conditions of former days may suit Chinese conditions of the present day.

Now the one lesson which the history of the parliamentary development of Europe and particularly that of England teaches us, is that this form of government found its origin in the attempt to represent the needs and aspirations of the economic and social classes which really counted for something in the life of the state. It was the church, the landholding interest and the merchants alone which it was attempted to represent in the early English Parliament and the other less important representative bodies on the continent of Europe. The Christian Church was represented because the church was of vast importance owing both to its ownership of land and to its intimate relations with the daily life of the people. The landholders and the merchants were

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represented because they had economic power. Because these classes had great actual power, it was believed to be desirable to obtain their coöperation in carrying on the government. For this coöperation having been secured, the government could act with a certainty and a power which otherwise would have been impossible. Thus where the classes in the country which it was desired to tax had through their representatives consented to the tax its collection was made more easily and with much less friction than would have been the case had the tax been imposed as a result of the mere order of the Crown. Thus again the parliament afforded an opportunity for those who believed that they were aggrieved by the action of the Crown—and such grievances are almost unavoidable under any system of government—to state what those grievances were and ask for their redress.

The immediate effect of the establishment of parliamentary government was thus to bring the governed and their governors together in such a way that through their coöperation due consideration might be given to the really important social and economic interests of the country. As new classes became of importance provision was gradually made that they also should be represented. But it was not usually until these classes became so conscious of themselves that it was possible for them to become organized, that any great regard for them was had.

Such a method of representative government may not seem ideal to those who are acquainted only with modern European political institutions which have in large measure abandoned the idea of class representation, but it had the tremendous advantage of offering opportunities for the immediate and practical solution of existing problems and of permitting new interests to make themselves heard as they became of sufficient importance to justify the grant to them of representation. It must not be supposed either that this development was an altogether peaceful one, for it was not. It was accompanied by much agitation and disturbance upon the part of those interests which were not represented and which thought they should have representation as well as by resistance to change upon the part of those interests at any particular time in control of the govern-

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ment. In more than one case civil war broke out when the resistance of these interests to the widening of representation could not be overcome in any other way. But the whole course of European political history would seem to show an almost continuous development in the direction of according representation and participation in the government to all the social and economic interests in the state which were really important.

But representation of social and economic interests was not the only important characteristic of early European representative government. Popular election was almost never resorted to as a means of securing the desired representation. In some cases there was no election whatsoever. Thus originally the English House of Lords was composed of those who were individually summoned by the Crown. In other words the membership of that body was due to appointment rather than election. Where election rather than appointment was the rule the electors were a very narrow class of voters consisting, in the case of the merchant class, often practically of only the guilds in the cities. Indeed it was only in the open country that any uniform system was adopted: Here it was only those who had a reasonably large income from landed property, who might vote for the knights who represented the counties. In the cities the matter was determined largely by local custom which itself was presumably due to the peculiarity of social conditions.

If then China were to attempt in the organization of a representative system suited to her conditions to follow European and particularly English example afforded at a time when European social and economic conditions resembled much more closely Chinese conditions than do modern European conditions, she would endeavor to provide for:

1. Representation of those economic and social elements or interests which in the immediate past have counted and at the present time count for something in the life of the country.

But if I am correctly informed there is no interest in China at the present time which offers the counterpart of the Christian Church in medieval Europe. There has never been in China an established church occupying a position similar to that oc-

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cupied by the Christian Church. There are in addition to Confucianism a number of religions which have exerted a tremendous influence on the life of the people but none of them has the organization which the Christian Church of the Middle Ages possessed. None of them means to the Chinese what the Church meant in those days to the people of Europe. Even Confucianism itself which many regard as a system of ethics rather than a religion, although accorded almost as much reverence by the Chinese as was accorded to the Christian Church by mediaeval Europeans, has no such power as had that Church. In the first place it has no such compact and effective organization as had the Christian Church. In the second place it owns no such masses of property as were formerly owned by the Christian Church. No religion then, not even Confucianism, if we regard that as a religion, has the actual power and influence in the state as the Christian Church once had in Europe. It would, therefore, in the conditions now existing in China, be vain and useless, even if it were desirable, to attempt to give to any religious organization, as a religious organization, such representation as was accorded in Europe to the Christian Church.

One of the peculiar characteristics of China's life, however, has been the esteem and reverence in which men of learning and letters have been held from almost time immemorial. The literary class has, it might almost be said, been to the Chinese what the Christian Church was to the Europeans of the Middle Age. China has indeed for many years been governed by the literary class in much the same way that Europe was at one time governed by the ecclesiastics. China has, it is true, in the immediate past widened the field of what she regards as useful knowledge. She has added to her ancient classics, which for so long a time exerted over her people almost the only intellectual influence to which they were subject, much of the more practical learning of western Europe. Many of her young men have studied abroad. Others in greater numbers are now being subjected to western intellectual influences in the educational institutions which have been established in the country. But it may not properly be said that China has cast off her reverence for men of learning.

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If this is the case men of learning still form a class which counts for a great deal in China's national life, and should be accorded representation in any representative assembly that may be provided.

Just as there is no church in China which is capable of being represented as an organization, so there is no large landholding interest, which may be represented in a representative assembly in the same way in which the large landholding aristocracy was represented in the English House of Lords. If I am correctly informed, land is generally held in China in small parcels. There are, it is true, a few large landed estates but the class which owns them is too few in numbers and as a class owns too small a proportion of the land in the country to assume such a position of influence in the economic life of the people as would justify the grant to them of representation as a class.

So far as concerns the representation of the land holding interest we have then in China only the small landholders who are sufficiently important as a class to deserve representation. But while the small numbers of the large landholders make it difficult if not impossible to give them representation as a class, so in the case of the small landholders their very number makes it almost useless to attempt to give them representation as a class at present. For their numbers when taken together with their lack of acquaintance with methods of effective political coöperation make it useless to expect that any good results would follow the attempt to give to men merely because they are the owners of small parcels of land the right to be represented in a representative assembly.

The only possible way in which the landholding class could advantageously be represented would be by some method of indirect representation. If provision were made for the presence in local assemblies of representatives of agricultural property, it would perhaps be feasible to give to such local assemblies the right to choose among the landholders of the district possessing a minimum amount of land certain members of the national representative assembly.

While there are no church and no large landholding interest

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which may be relied upon in any large measure as basis for a representative assembly, we do find a commercial class conscious of its common interests, which has, because of this consciousness of common interest, already secured a strong organization. If I am correctly informed, there are in almost all the important cities of China merchant and trade gilds in which are organized most of the important merchants and artisans of the city. For the most part each trade has its own gild, which is so well organized that no one pursuing the particular trade can follow it with any hope of success unless he is a member of the gild and abides by its decisions. As Mr. Morse says in his little work *The Gilds of China* (p. 21): "The trade gilds have grown up apart from and independent of the government: they have moulded their own organization, sought their own objects, devised their own regulations and enforced them in their own way and by their own methods. Working thus without support or restraint from the government of the empire or the city, the Chinese gilds could easily have remained entirely without power: but, partly from the irresistible dead-weight force of an Asiatic democracy, partly because the agents of government are drawn from the mercantile class, partly because the gild is able to profit from the business instinct which is so strongly developed in the official mind, and partly because of the enormous impulsive power of a mediaeval form of public opinion and the development of the boycott by centuries of practical use, the gilds have in fact obtained an enormous and almost unrestrained control over their respective trades."

Up to the present time these gilds have, except in rare instances, had little if any connection with the government. They have, however, discharged functions such as the regulation of trade which in other countries have often been regarded as functions of government. Furthermore, as Mr. Morse points out, one gild, at any rate, that is "The Great Gild of Newchwang" which is composed of the principal Chinese bankers and merchants of the port of Newchwang, performs as an unofficial municipality duties which elsewhere are usually attended to by the constituted municipal authorities. Thus it "maintains streets, drains, and

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reservoirs; controls the common lands; relieves the poor; maintains or supports charitable societies, etc." (Morse, *The Gilds of China* p. 49).

It would seem then that China has in the merchants of the country an economic class of great importance to the life of the people, which is conscious of a common interest and has already shown itself capable of securing an organization of considerable strength. If this is the case, the attempt should be made to use this merchant class as one at any rate of the foundation stones upon which to construct a representative system. One of the difficulties in the way of carrying out such a plan is to be found in the fact that the government of China has like most autocratic governments, always been regarded with distrust if not with fear by the people generally. The merchants offer no exception to this rule. This being the case, the attempt to confer upon the gilds official functions may because of their unwillingness to assume such functions, be a vain one. This difficulty would, however, be encountered only in case the attempt were made to make the gild as such the voter to be represented.

2. This consideration naturally brings up the question, how should the interests recognized as deserving representation secure their representation? Attention has already been called to the fact that popular election was not the ordinary method of securing representation in the early history of the English Parliament. In fact appointment by the Crown was the way in which the members of what is now the English House of Lords originally were selected.

It would be possible to secure a representative body through the method of appointment in those cases where the class to which it was desired to give representation, either were so unconscious of a common interest as to be incapable of organization, or were so fearful of the results of a close connection with the government as to be unwilling to give to the proposal that they should be represented their cordial support. Under such conditions resort would necessarily have to be had to appointment.

In case the method of appointment were adopted as the method of selecting all or a portion of the members of a national repre-

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sentative assembly, care would have to be taken by the appointing power to exercise the power of appointment in such a way as to secure representation both of locality and of economic and social interest. A certain number of representatives should be accorded to each large local district such as a province and to each economic or social interest such as the literary, the landholding and the merchant class in that district. The number of members so accorded to both district and class should be commensurate with the importance of the district and the class.

In order to secure locality representation, it may be suggested that it would be advisable that the power of appointing a certain number of the appointed members should be exercised not by the central government at Peking, but by the chief officers of the largest local districts or by the local councils in such districts. One of the great advantages of such a solution of the problem would be that the central government would be brought and kept in close touch with the local government. It would furthermore obviate the necessity for more than one direct popular election, that is the election of the members of the local councils, and frequent and numerous popular elections are to be avoided for the present in China. The people are as yet unaccustomed to them: indeed, almost any form of political coöperation is almost unknown.

3. The only other question arising in connection with a representative assembly is whether it should consist of one or two chambers. It may be admitted at the outset that the two chamber system is the accepted form of parliamentary organization in most modern states. The origin of this system is, however, the result in a measure of an accident. The mediaeval representative bodies of Europe were, as has been pointed out, organized with the idea of securing representation to the three great social and economic interests in the state, that is, the church, the landholding aristocracy and the merchant class. These three orders or estates, as they were called, were originally almost everywhere throughout Europe organized in three separate chambers. England was no exception to the rule. As Professor Ogg says: (*The Governments of Europe*, p. 13) "Originally

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the three estates sat separately. Their primary business was the voting of supplies and, the principle being that a tax ought to be conceded by those who were called upon to pay it, the natural course was for the lords to grant their scutages and aids, the commoners their tenths and fifteenths, and the clergy, their subsidies, apart. Gradually, however, there appeared certain affiliations of interest which operated to modify the original practice. . . . The greater clergy and the greater barons . . . developed sufficiently large interests in common to be amalgamated with ease in one body. Similarly the lesser barons found their interests essentially identical with those of the country freeholders represented by the knights of the shires and with those of the burgesses (the representatives from the cities and therefore of the merchant class). The upshot was a gradual alignment of the aggregate membership into two great groups, the one of which became historically the House of Lords, the other, the House of Commons."

Such was the origin of what has in the scientific nomenclature of government, became known as the bicameral organization of the legislature. This general form of legislative organization has, however, been preserved in most countries, either because of the desire to imitate what had proved itself to be a successful model or because of reasons peculiar to the particular country. Thus in many modern countries there is an aristocratic land-holding class, which has been sufficiently powerful to secure representation in an upper house, a house of lords. This is the case in most of the European monarchies. Thus again in other countries, which are confederations of formerly more or less independent communities, the upper house or senate, as it is often called, has been retained in order to provide representation for the local communities by whose union the confederation was formed. This is the case with the United States, the German Empire, the Dominion of Canada and the Commonwealth of Australia. Finally, it is to be remarked that it is often said by political writers that the bicameral system has a great advantage in that it necessarily subjects all matters upon which favorable action by the legislature is taken to a

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double examination and consideration, in that under the system each of the two houses of the legislature must give its approval. It is, however, to be observed that this belief in the desirability of double consideration has not stood in the way of the movement, which it seems has already been entered upon, to reduce the upper house to a position of powerlessness, where such action has been necessary in order to settle conflicts which arise between the two houses of the legislature. Thus the recent parliament act of 1911 has had the effect of reducing greatly the power of the present British house of lords.

It may then be said that the real reasons which at present result in the retention of the bicameral system are either the desire to secure the representation of an aristocratic class or the belief that in a confederation the states or provinces of which the confederation is composed shall be given representation as such.

It would seem, therefore, that unless great weight is to be given to the feeling that double deliberation is desirable, there is really no reason under the conditions which exist in China for giving the bicameral form to any representative assembly which may be established. China has no need of a legislature consisting of two chambers. For she has no landholding or other aristocracy nor states or provinces to which it is necessary to give representation. While there are thus no compelling reasons in the situation of China in favor of the bicameral system, there are some reasons of great weight against the adoption of the bicameral system. In the first place, China has practically no experience with a legislative body. For centuries, for millenniums we might say, China has existed under the characteristic Asiatic form of government, which, as has been pointed out, has concentrated all political functions in one all powerful monarch. Lacking all experience of a representative legislature, the country will find it at first difficult to adjust itself to the new conditions which will result from the establishment of a representative assembly. It is, therefore, extremely desirable that the form of the new political organization shall be as simple as possible, and that that form shall, as far as may be, avoid opportunity for conflict between the different parts of the political mechan-

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ism. While double deliberation may under certain conditions be desirable it is to be remembered that the necessity of the approval of two different bodies, in order that effective political action may be taken, makes it altogether probable that there will be conflict between these two bodies. Conflict, however, is at the present moment just the thing which should be avoided. What is needed now is prompt effective action with regard to the many problems which are pressing for solution.

Further, if we may judge from past European experience, any representative body which may be established in China will, because of the lack of all legislative traditions, be rather a controlling body which in the first years of its life should exercise its powers of control sparingly and with great discretion rather than an initiating and guiding body. In other words for quite a time to come the functions of a Chinese representative body should in large measure be consultative and advisory. This being the case, the existence of two such bodies, whose advice might be contradictory, might tend to introduce confusion into the operations of government and be a hindrance rather than an aid to effective government. If the functions of the representative body were to include, in addition to consultative and advisory functions, functions of serious and effective control and approval of the action of the executive branch of the government, these considerations would have still greater weight. For it is always more difficult to obtain the approval of two bodies than that of one.

For these reasons then it would seem desirable that the representative body of the Chinese Republic should consist of a single chamber rather than of two chambers.

The existence of a single chamber would not, further, make it impossible to give representation to different classes. Thus the French constitution of 1791 made provision for the representation in one chamber of locality, of property owners and of the population generally. A single chamber, moreover, would not make it impossible to provide different methods of selecting the members. It might easily be prescribed that a certain number of the members should be selected through the method of appointment

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either by the central government of Peking or by the highest officers of the local districts, and that a certain number should be elected either by the local councils or by such voters as it was deemed safe or desirable to entrust with the suffrage. But only very sparing use of direct election by voters should be made for the present. Indeed it is doubtful whether any resort whatever should be made to the method of direct election.

To be more specific it is then suggested that the representative assembly of the Republic of China should be organized on the following principles:

I. It should consist of a single chamber.

II. It should be so composed as to represent those interests in the country which count for something in the life of the people. The adoption of such a principle would involve the attempt to provide for the representation of locality, the province if that is retained, or if that is abandoned, the representation of the largest local district which may be selected. That is, each of the districts so selected should have a certain number of representatives.

III. In addition to the representation of local districts the attempt should be made to give to each of the economic and social interests in the localities a certain number of representatives. These interests are.

1. The literary class. That is, a certain number of the representatives should be required to possess the qualifications which, it may be decided, indicate the requisite degree of learning. The only practicable method for determining the possession by a given person of such qualifications is the requirement that he shall have pursued a certain course of training which shall be evidenced by a diploma or degree.

2. The landholding or agricultural class. That is, a certain number of the representatives should be the owners of a certain amount of landed property.

3. The merchant class. That is, a certain number of the representatives should be merchants doing business in some one of the cities of a certain size in the Republic.

IV. There should be provided several methods of selecting the representatives.

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1. The local councils, which should be organized in somewhat the same way so that they may represent the same interests which are represented in the national representative assembly, should be given the right to select a certain proportion of the numbers of the latter body.

2. The highest officers of the local districts should also have the right to appoint a certain proportion of the numbers of the national representative assembly so that they may be able after the local councils have taken action to select members of the national representative assembly representing the district in such a way as to secure, as near as may be, the proper proportion of members representing each class which is represented.

3. Finally, the president should have the authority to appoint a certain number of the members of the national representative assembly so that he may give seats in that body to men who have had experience in public life or whose distinction acquired in other works of life makes it desirable that they should participate in its deliberations. It would be well if those appointed by the president should have long terms of office not less than ten years, for example, and should not lose their seats in case of a dissolution, if the power of dissolving the assembly is conferred upon the president.

V. The president shall have the power to dissolve the assembly in which case the term of office of all members except those appointed by the president should terminate. In case the term of office were not brought to an end by dissolution it should be not less than four or five years.

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THE BALKAN QUESTION—THE KEY TO A PERMANENT PEACE

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The march of events has vindicated the reasoning of those who, for many years, in innumerable books and magazine articles, have been warning the western world of the perils lurking in the "danger zone of Europe," and the present European war is nothing more nor less than the Armageddon which has at last been removed from the realm of obscure apprehension to that of pitiless reality.

The Balkan question cannot be finally settled by the outcome of military operations alone, however decisive they may appear. If the solution imposed by military force is also the solution dictated by justice, it may be reasonably relied on for permanency. If on the contrary it merely represents the triumph of might over right the decision will be sure to be contested and we must look forward to future wars. Consequently the powers which will determine the form of the treaty of peace should seek a solution in harmony with justice first of all, in a steadfast desire to secure the peace and stability of Europe.

There are of course other great questions to be settled by the treaty of peace, but it is believed that no other question is so teeming with seeds of future strife, or demands earnest consideration of a more intricate group of social facts.

To compress within the limits of a single article a survey of the entire Balkan question, and clearly to set out the principles which would supply the basis for an equitable solution, is a difficult undertaking. The subject must be dealt with comprehensively, in every possible phase, to be understood at all, and the rapid examination of a complicated history is likely both to confuse the reader and to betray the writer. If, however, the

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result attained justifies the means employed, by its appeal to reason and to the sense of fairness, shortcomings of presentation may perhaps be excused.

The purpose is to begin with a review of the history of the Balkan peoples, breaking the subject into convenient periods, then to survey the relations of the Balkan peoples to the various great powers, more particularly Austria-Hungary and Russia, and finally to suggest the policy which should be maintained in the Balkans both by the Great Powers and by the native populations themselves in the interest of justice and of an enlightened humanity.

First, for the purposes of this inquiry, without going into the controverted questions of racial differences and complications, the peoples of the Balkan peninsula, with the elimination of the Italian, Greek, and Turkish elements found mainly on the seaboard or to the southward, may be classed as three, the Roumanians, the Bulgarians, and the Serbs. Though possessing many cultural affinities as branches of the great Slavic race exposed to similar influences, each zealously maintains its claim to distinct nationality, and there are no indications of any tendency toward a merger of the three divisions into a single nation. The pride of both the Serbs and of the Bulgarians, in their traditions, though both are closely interrelated in language, keeps them apart, while the Roumanians to the north have long shown sufficient stability to resist amalgamation. In addition to these major racial cleavages there are minor political cleavages, such as those of the Servians, Montenegrins, and the inhabitants of Bosnia-Herzegovina among the Serbs, and there are also, to some extent, religious cleavages, for while the religion of the peninsula is normally Greek Catholic the Bulgarians have their national church, Orthodox in every thing except organization, there are many Roman Catholics in Bosnia-Herzegovina, and there is also a Moslem element scattered through the peninsula.

The Slavs of eastern Europe are not as a whole possessed of much aptitude for political organization. In Russia, for example, it has been stated that they have shown themselves incapable of truly socialized action, despite their socialistic aspirations,

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but capable only of an expanded individualism as exemplified in their collectivistic family and parochial institutions. To the statement that the Slavs lack political aptitude there are plausible exceptions, notably the Czechs in Bohemia; and the Balkan Slavs, though not yet so highly civilized as the Czechs, have shown in recent years indications of a political intelligence of a different grade from that of their Russian neighbors. Their passion for national independence burns with such ardor as to prompt every sacrifice, and it is impossible to deal with them, despite the semi-barbaric rawness of their civilization, as intended by nature to play the rôle of subject peoples. Their geographical position early brought them under Romanizing influences at a time when the Roman conquest stood for the expansion of civilization, and later into closer contact with the life of neighboring civilized communities than the Slavs of the north. A Balkan character, distinct from that of the Russian Slav, was thus evolved which has features of similarity to that of the Italians and Greeks before the two latter peoples achieved their national independence. The raw material thus exists from which some day a nation might be formed worthy to take its place among the greater European states, beside Italy and Greece, or to take up an autonomous position beside some great empire like that which Bohemia occupies with relation to Austria.

The history of the Balkan peoples is largely the history of Turkish oppression and of the attempts of Russia, Austria, and other European powers to intervene on behalf of the Christian subjects of Turkey. The Turkish conquest was completed in the fifteenth century. Turkey then set her eyes on Hungary, and in the wars for the possession of Hungary the possession of Servia, Bosnia, and Wallachia shifted from Turkey to Austria and then back to Turkey in the eighteenth century. Russia had also shown herself so formidable to Turkey, before the eighteenth century closed, that she was acknowledged by treaty with Turkey as protector of the Christian subjects of the latter. Wallachia had in 1769 attempted to place itself under Russian protection on account of the extortions of the Porte, but without success. The legitimized influence of Russia dates from the

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year 1774, when Turkey conceded to the Russian ambassador at Constantinople a sort of protectorate over Wallachia and Moldavia (Roumania).

The history with which we are primarily concerned may be considered as beginning with the nineteenth century. At the time of the Napoleonic wars the Balkan peoples, despite their traditions of national achievement before the Turkish conquest, had for centuries bowed to the power of the Sultan. Their subjection to the Porte in the eighteenth century was complete with two exceptions, that of Montenegro, boasting an early obtained independence, and intermittently embroiled in war with Turkey down to 1861, when it acknowledged the suzerainty of Turkey for the first time, and that of Servia, Bosnia, and Wallachia, which for the brief interval between 1718 and 1739, already mentioned, fell into the hands of Austria, to be quickly regained by the Turk. At the end of the eighteenth century Russia was the only foreign power which had acquired any actual influence in the Balkans, and its influence was weak, finding only the Roumanian route to Balkan confidence accessible. The treaty concluded between Russia and Turkey toward the close of the century, in which the former was acknowledged protector of the Christian subjects of the latter, was to be barren of results.

The next period is that extending from the Napoleonic wars to the liberation of Greece. During this period no important and lasting change was wrought in the status of European Turkey, but it is interesting to note that Russia, reaching out for influence in Servia and Montenegro, gained a little headway in Servia and lost a little in Roumania. At the outset, to check Napoleon in Egypt, she allied herself with Turkey and England, but in 1805 she demanded of Turkey a more distinct recognition of her protectorate over the Christians. Napoleon's intrigues in Roumania led to the two principalities of that country being occupied by Russian troops from 1806 to 1812, and formally assigned to Russia by Napoleon in 1808, "in order," he said, "to throw an apple of discord between Russia and Austria." But the plot for the partition of Turkey came to nought, and in 1812, by the Peace of Bucharest, Russia gave up all claim to

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Roumania, stipulating for Bessarabia. Then came, in 1821, the war between England-France-Russia and Turkey for the liberation of Greece, in which Servia obtained, as a result of its successful revolt against Turkey, a sort of autonomy under Russian protectorate.

The interval preceding the events leading up to the Crimean war witnessed the entrance of England into the Balkan disputes. The Russo-Turkish war of 1828–29 resulted in a five years occupation of Roumania by Russian troops, which advanced southward across Bulgaria as far as Adrianople. There English diplomacy, fearing the conquest of Constantinople, halted them. But for English interference Bulgaria might have been added to the Russian dominions, at least as a protectorate. The backdown of Russia restored Servia to the Sultan, for it became an hereditary principality under Turkish suzerainty. After the war was over Russia and Turkey intrigued against each other for years for a preponderance of influence in Roumania. A project for joint occupation in 1848 fell through.

The Crimean war, though attended by significant developments in European diplomacy, effected hardly any departure from the *status quo* in European Turkey. A religious quarrel between the Orthodox and Roman churches supplied Russia with a motive or excuse for war, and demanding fuller recognition of her rights as protector of the Orthodox, she proposed a division of Turkey whereby England would get Egypt, Crete, and Arabia, and Russia the Balkan peninsula. Czar Nicholas, who invented about this time the phrase "The Sick Man of Europe," thought he saw an opportune occasion to send his troops into Turkey. England then, because of the spell of Napoleon's dictum, "To rule Constantinople is to rule the world," maintained the integrity of the Ottoman Empire to be essential to the peace of Europe. Because of the determination of the Czar to take Constantinople the Crimean war ensued, between Russia and England-France-Turkey-Sardinia. One of the main objects of the war was to take the power of settling the disputes of the Christian subjects of Turkey out of the hands of Russia alone, and to intrust it instead to the Concert of Europe. When the war was concluded

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by the treaty of Paris, in 1856, Turkey was admitted to the Concert, under a promise to give the Roumanian principalities autonomy under Turkish suzerainty. Though Austria and Prussia had not been belligerents, they also were admitted as great powers to the conference that drew up the treaty. Austria had been placed in a difficult position during the war; she had owed her preservation in 1849 largely to Russia, yet she did not desire to see Russian influence increase in the Balkans. She chose to remain neutral.

The ensuing twenty years showed considerable development of the spirit of independence in the Balkans. Moldavia and Wallachia, distrustful of France on account of the meddlings of Napoleon III, energetically availed themselves of the grant of autonomy in the treaty of Paris, consolidating themselves into the single province of Roumania, convening a joint parliament, and adopting a constitution. The Servians bombarded Belgrade and, aided by Austrian diplomacy, forced the withdrawal of the Turkish garrison, and King Milan granted a new constitution which stirred up democratic hopes. This was also the period of the formation of the Exarchate or Bulgarian national church, which was later to offer one of the bars to a cordial understanding between the Bulgarians and the Servians and to intensify the rivalry between the two for the acquisition of Macedonia.

The next important event was the Russo-Turkish war of 1877–78. Years before, during the Franco-Prussian war, Russia had intimated her intention of setting aside the principal condition of the treaty of Paris and keeping a fleet of sufficient strength in the Black Sea to check Turkish oppression, at the time when Turkey was violently suppressing Balkan revolts. The Bosnian insurrection occurred in 1875, the year of the Andrássy note. The occasion for the Russo-Turkish war was found in the Bulgarian massacres which horrified the civilized world. Servia and Montenegro declared war on Turkey in 1876. Russia and Austria both had their eyes on Servia, and the two countries sought to avoid friction by an agreement between both emperors whereby, in the event of Servia and Montenegro winning their independence, Austria should have the right to occupy and

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administer Bosnia and Herzegovina and Russia should refrain from making war on Servian territory. This seems to have been a revival of an old understanding with regard to spheres of influence. Austria at this time emphasized her assertion that she regarded Servia as within her sphere of influence. But the Servians were beaten, though the Montenegrins kept on fighting. The next year the Russo-Turkish war broke out.

War came as the result of the impotence of the Concert of Europe, which torn by inward dissensions and jealousies had been powerless to discharge the responsibility it had assumed under the treaty of Paris. Factors in the break-down of the Concert had been the British jealousy of Russia and policy of keeping on good terms with Turkey, the exorbitant influence allotted to Turkey by her admission to the Concert in 1856, and the pernicious rule which decreed that the action of the Concert must always be unanimous. Great Britain if she had been less anxious to cultivate friendship with Turkey could have coöperated with Russia without risking the harmful extension of Russian influence in the Balkan peninsula. In the event of combined military action against Turkey by several European powers Russia could easily have been prevented from gaining a preponderant advantage. The czar at the time welcomed the coöperation of the other powers in compelling Turkey to live up to the moral obligations which the treaty of Paris had imposed on the Porte. He gave solemn asssurances that he had no desire for the conquest of Constantinople or of any Balkan territory. It is really to Russia's credit that she then, finding the Concert of Europe emasculated, broke away from the other powers to wage war against Turkey on her own account. British statesmanship had committed an irretrievable blunder by bringing on this situation. The results of the Russo-Turkish war meant a great advance toward the emancipation of the Balkan peoples. But Great Britain and the Concert of Europe could not claim the fruits of a victory which they had done nothing to achieve. The general European protectorate of the Christian populations contemplated by the treaty of Paris must give way either to a Russian protectorate or to Turkish suzerainty. Morally, as the

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consequence of the non-participation of the other powers in the Russo-Turkish war, Russia should have been granted all that she claimed under the treaty of San Stefano. Expediency, however, triumphed over justice, and England for her own private advantage sacrificed the principle of united European action to her dread of Russian aggression. Lacking the cordial support of one of the most important European powers, Russia, the Concert of Europe which drafted the treaty of Berlin could of course be only a sham, masking the imperial designs of Disraeli, Andrássy and Bismarck.

The treaty of San Stefano had contemplated the organization of a Great Bulgaria, larger than the present Bulgaria, to be occupied for two years by an imperial Russian commissioner until the administration of the country was established and its king and parliament elected. Russia doubtless anticipated finding some way to continue the protectorate after the expiration of the two years, and would probably have been successful.

England bears the greater part of the responsibility for so weakening the Concert of Europe that the formation of a greater Bulgaria under European rather than Russian protection became an impossibility. An arrangement of this kind, modelled on the principle of the San Stefano treaty, would have gone far toward a solution of the whole Balkan question and would have averted most of the subsequent barbarous wars. The partition of Bulgaria, in the effort to erect an insurmountable barrier to Russian expansion, scattered seeds of strife not only among the Balkan peoples themselves but among the great powers. Before the Russo-Turkish war harmonious action by all the powers, of course excepting Turkey, would have been practicable. The attitude of Great Britain alone prevented a harmonious understanding. Austria was then on fairly good terms with Russia, and England had no fear of Austrian expansion. Tentative suggestions were made, in fact, looking to a friendly agreement with respect to the spheres of influence of Austria and Russia in the Balkan peninsula. General Ignatiev proposed to the Austrian diplomats the annexation of Bosnia as a condition of Austria's recognition of the treaty of San Stefano, and Count

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Andrássy replied with a counter-proposition, that of giving Russia full freedom of action in Bulgaria if Russia would consent to the autonomy of Macedonia under Austrian protection. At the Congress of Berlin England did not resist the Austrian claim of the right to occupy and administer Bosnia and Herzegovina. Nor did Bismarck oppose this arrangement. It is stated that his chief reason for permitting Austria this concession was to turn her energies eastward and to keep her and Russia embroiled in the Balkans.

Russia had to consent, in the treaty of Berlin, to a division of Bulgaria into the three provinces of Bulgaria proper, Eastern Rumelia, and Macedonia, the first to be only nominally subject to Turkey, and the two latter to be under the suzerainty of the sultan, with a grant of a sort of autonomy to Eastern Rumelia and a promise of limited self-government at a later time to Macedonia. Other results were the cession of the Bessarabian and Armenian districts to Russia, Roumania being compensated by giving it Dobrudja in return for the former, and the complete independence of Roumania and Servia.

Almost as soon as the treaty of Berlin is concluded that struggle begins which is first to involve Austria and Russia and later the whole of Europe. The Concert of Europe, be it remembered, has really been dissolved in spite of the formal affirmation of it in 1878. Russia has virtually been expelled from it, and takes the obligations supposed to be imposed on her by the Berlin treaty rather lightly. She at first makes Bulgaria virtually a Russian protectorate, in contravention of the spirit of the treaty. Austria prepares for the struggle by the arrangement of 1879 which was the beginning of the Triple Alliance. She also interests herself to an increasing extent in Balkan affairs, being compelled to by the resentment which arose in Servia when Bosnia and Herzegovina were occupied. The boundary between Servia and Bulgaria being in dispute, Austria by secret treaty in 1881 undertakes to support Servia in any attempt to annex the disputed territory at Bulgaria's or Turkey's expense. When in 1885 the Bulgarian revolution bursts forth and the Serbo-Bulgarian war follows, Austria comes squarely

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into collision with Russia through the latter's attempt to dictate the course of events in Bulgaria, now including the former Eastern Rumelia. In 1886–87 Russian troops are massed on the Austrian frontier. Again there is no Concert of Europe to rise to its opportunity and to settle the newest phase of an old question. That imperfect substitute, the Triple Alliance, steps in in its place and compels Russia to back down. England has isolated herself from the dispute, having tied her own hands by the Anglo-Turkish treaty concluded a few days before the treaty of Berlin. Besides, she is eager not to offend Russia, in view of her jealousy of the Triple Alliance, and is working slowly toward the Anglo-Russian *rapproachement* of 1907–08 which is to subject her to an unnatural alliance and to oppose her to Austria in the Balkans, instead of enabling her to support Austria. The Balkan question thus gradually becomes the bone of contention between two rival alliances, each tugging to overcome the strength of the other, instead of being treated as perhaps the gravest problem which the politics of Europe has to face.

The Anglo-Russian *entente* did not come at once, as soon as the fact of a strong Austrian interest in the Balkans became apparent. During the régime of Stambouloff, who by his resistance to Russian influence created a strong state in Bulgaria, until his assassination in 1895, England gave Russia a rather disagreeable eight years. But from 1895 onward it was apparently the purpose of England to leave the Balkan peoples to their own destiny and to take no steps which might involve any change in the territorial *status quo*. She remonstrated at the time of the Macedonian massacres in 1903 and again on the eve of the first Balkan war, but her policy was really directed at the maintenance of an intolerably chaotic situation in the interest of Turkey and Russia.

From 1895 onward, when Bulgaria had shown herself obdurate to Russian dictation, the whole Balkan question was gradually to shape itself into more definite form, and the lines on which a solution could be drawn up by Great Britain or the Concert of Europe were becoming more clearly evident. It should have been apparent to any statesman closely in touch with the situation

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that the Balkan peoples had displayed non-amenability to Russian rule and that their destiny was either that of independent states or autonomy as a free component of an Austro-Hungarian federation. A revitalized Concert of Europe should have dealt with the question on this basis, and weighed the respective merits of complete autonomy and Austrian influence. Instead, in the absence of any definite mandate of Europe determining Austria's rights, and in the presence of a moral atmosphere of obstruction which forbade her to seek a comprehensive settlement of the Balkan difficulties, Austria was driven to employ the opportunist tactics that tended to the perpetuation of strife among the native populations. The Berlin treaty and her understanding with Russia had tended, at first, to allot Servia to her as her sphere of influence. She speedily discovered her interest in Roumania also, peopled by kinsmen of her own Roumanians and lying at the mouth of the Danube. In addition to the secret treaty of 1881 with Servia, renewed in 1889, she also negotiated a secret treaty with Roumania, providing that if Bulgaria should be at war with Roumania and Austria, Roumania should have the right to annex the Tourtoukai-Baltchik line. It is evident that Austria had now won a much stronger position in the Balkan peninsula than she had ever before attained. Bosnia and Herzegovina were being vigorously reclaimed from Oriental to European civilization under Austrian auspices. With most of the states except Bulgaria she had some sort of understanding, and Bulgaria had thrown off Russian domination.

By the Greco-Roumanian *rapprochement* of 1901 Austria followed up a policy which is plausibly to be interpreted as one aiming at the weakening of Bulgaria and the isolation of Roumania from the Serbo-Bulgarian rivalry. It is reasonable to suppose that Austria thought Bulgaria the chief menace to peace and order in the Balkans; for the Macedonian revolutionary agitation dates from 1893, and Bulgaria had a hand in it. In spite of the significant growth of Austrian influence in the Balkans, however, which must have excited the envy of Russia, there was no open breach between the two powers. The Austro-Russian *entente* of 1897 continued, and by virtue of it Russia

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and Austria formulated a feeble scheme of Macedonian reforms in 1903, which were agreed to by the Porte. It is probable that Russia might then have espoused the cause of the Macedonians and Bulgarians and have come into collision with Austria, but she was then pre-occupied with the gravity of the situation in Manchuria, and in no mood to wage war on Japan and Turkey at the same time.

But at this time the grip of Austria in Servia was weakening. Diverted from Austrian influence by a change of dynasties at Belgrade, Servia would have liked to get back Bosnia and Herzegovina with the aid of Bulgaria. Bulgaria thought the claim exorbitant, and declined an offensive alliance, but in 1904 a defensive alliance was formed. The treaty was vague and gave no assurance that the old Serbo-Bulgarian differences were at an end. Russia had now definitely shifted her ambition from Asia to the Balkans, encouraged by the Anglo-Russian Entente. Then came the Austrian coup formally annexing Bosnia and Herzegovina, at a time when it was feared that the young Turks might seize them, in view of the great impetus given to Servian and Bulgarian national aspirations by the Young Turk revolution. This was a violation of the treaty of Berlin which would have been flagrant if the treaty had not so often been disregarded. At the same time came the Bulgarian declaration of independence, made without consulting Servia. In reaching an interpretation of Austrian policy, much depends on the question whether Austria incited or foresaw the declaration. The evidence on this point is conflicting and uncertain. It would at least be easier to understand Austria's action by assuming that, although the king of Bulgaria had declined to coöperate in that action, there was some connection between the two events. Bulgaria's sudden act would create jealousy and suspicion in Servia, the alliance would be broken, and Servia would be impotent to resist. Such an expectation if it existed was verified by the actual result. Servia did suspect Bulgaria of having connived at the annexation of Bosnia and Herzegovina. Moreover, the independence of Bulgaria, if not met by a counterstroke, might revitalize the alliance and endanger Austrian interests.

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On the other hand, if Austria's anti-Servian move was decided on without taking into account the actual situation in a neighboring state—an unusual omission in calculations of this kind—one is at a loss to explain how the possibility of a serious revolt could have been so readily faced.

Bulgaria now grew in importance, and was the chief factor in bringing on the first Balkan war (1912–13). The war was precipitated by Turkish outrages in Albania and Macedonia, and Turkey, not Austria, was the enemy. The Servians could hope for no immediate advantage in the way of retaliation on Austria. The war was to serve chiefly for the fulfillment of racial, religious, and irredentist aspirations seeking a "Great" Bulgaria, a "Great" Servia, and a "Great" Greece, and revolving about the unclaimed Macedonia as a center. But Russia, now bitterly jealous of Austria, though there had been no actual rupture between them, found in Bulgaria a ready tool of her own policy, having earned the gratitude of the struggling state by lightening the burden of the Turkish railway debt which she had transferred to her own shoulders. Her project of an alliance which should seem to be anti-Austrian was welcomed in Servia. Russia did all she could to strengthen Serbo-Bulgarian friendship, and the vexatious boundary question was momentarily shelved by the conclusion of a treaty in 1912 under which provisional limits were defined and the czar of Russia was to act as final arbiter on the question. It has been supposed that Russia did not incite the war of the allies upon Turkey. But when war appeared imminent M. Sazonoff traveled about in England and talked about Persia, and Russian diplomacy, though it professed not to desire war, was doubtless influential in averting European intervention. An Austro-Russian proclamation was issued with the conditional assent of Count Berchtold, discountenancing any change in the territorial *status quo* of Turkey and approving the principle of reform. But before the reply could be received Montenegro declared war, with a precipitancy attributed to Russian influence, and the allies made demands of the Porte which resulted in a declaration of war by the latter.

In the second Balkan war, for the division of the fruits of

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victory, Servia won from Bulgaria a large part of the disputed frontier region, and so far as this question of Macedonia is concerned, the treaty of Bucharest is considered in the Carnegie report on the Balkan wars to have "created a condition of things that is far from being durable; if the Bulgarian 'conquest' is almost annulled by it, the Greek and Servian 'conquests' are not well established." The losses suffered by Bulgaria excited the sympathy of several European nations, notably Austria, Russia and Great Britain. The Servians, in spite of their success, failed after the second war to establish themselves as a stable and orderly community, and the old Pan-Serb sentiment, brooding over the losses of territory in Bosnia-Herzegovina and Albania, was to lead to an active anti-Austrian propaganda which it is to be supposed that Russia has not been disinclined to encourage. It was not anticipated, however, that the Austrian attempt to discipline Servia would be so decisively resisted at Petrograd.

It is doubtful if the Russian people, as distinguished from the Russian dynasty, have ever had a strong desire for the conquest of the Balkan States. Pan-Slavism, though long a familiar cult in Russia, has been more the propaganda of a small group of philosophers and visionaries than the creed of any large element of public opinion. A war of conquest, once entered upon, furnishes an occasion for the awakening of aspirations based on community of race and religion, but such sentiments could hardly be strong enough in Russia, in times of peace, to force the government to make war on account of them. It is not popular so much as autocratic and official Russia which has carried on war for the relief or acquisition of the Balkan peninsula. The chief motive of the autocracy has evidently been the ordinary imperialistic vision of power based on enlargement of territory, military advantage secured by the acquisition of favorably situated ports and strategical positions, and possibly also the prospect of a greater future prosperity of the empire as a consequence of new facilities for trade. The autocracy may also have been more or less under the spell of racial hatred and religious fanaticism. When imperialistic hopes alone would sufficiently explain the desire to take Constantinople, it is very easy to see how, with

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racial and religious motives added, Russia should have so readily undertaken one war after another with the end in view of the eventual acquisition of the whole territory of European Turkey.

In a word, the real goal of Russia has been that acquisition of Constantinople of which Peter the Great dreamed. But she has been balked in attaining this object by the resistance offered by England, and by the vigilant jealousy of Austria. The result has been that for years she has bowed to necessity or expediency, and deferred the acquisition of Balkan territory to some riper future occasion. In the meantime she has endeavored by diplomatic means to strengthen her influence in the region which she would like to own or control. The Balkan peoples as a whole, however, resist Russian domination and oppose Russian ambitions as strongly as Great Britain and other European powers did at an earlier period.

The aid which Russia has rendered in the emancipation of the Balkan peoples from Turkish suzerainty has no doubt been considerable, though it may easily be exaggerated. After the treaty of Berlin, Russia ceased to play a rôle which can be regarded as that of an emancipator, for the Balkan peoples, with the exception of Macedonia, had won the greater part of their independence. Thenceforward it was not through Russian assistance or moral support, but through its own initiative and the help of other powers than Russia, that Bulgaria achieved its independence, and that Macedonia was liberated. That Russia throughout pursued a consistent policy is clear. That policy first contemplated the formation of Russian protectorates, complete conquest being impossible, and later, after the protectorates had thrown off the Russian yoke, the exclusion of other great powers from gaining an influence conceived as conflicting with the interest of Russia. So eagerly was the latter object pursued that Russia failed to limit her attention to a particular sphere of influence, but strove to keep Austria's hands off both Servia and Bulgaria and to strengthen an alliance encouraged with this very object. Obviously Russia has interests in the Balkan peninsula which she is not willing to have intercepted by Austria. And since

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the Russo-Japanese war her interest in Constantinople, and possibly even in the Adriatic, is keener.

It is evident that whatever benefit came to the Balkan nationalities from emancipation from Turkish suzerainty and submission to Russian protectorate, the advantage was but temporary. When we consider the intensely independent spirit of those peoples, the arrangement could be but provisional, supplying no adequate basis for the political reconstruction the communities wished to effect. Up to a certain point the interference of Russia proved salutary, in getting a new *régime* under way, but beyond that point Russia was unable to perform any high service to Balkan ideals.

If recognition of a need of increased commercial facilities has played any part in Russia's policy, there will almost appear a touch of irony in allusions to such a subject, for the day is far distant when Russia will come to exploit the economic resources of the peninsula. With Austria the case was different. She was a commercial state of sufficient importance and energy to find trade communication with the southeast of Europe highly desirable if not necessary. She and Germany invested capital, and in the matter of railways, navigable rivers, and seaports, Austria and Germany were in a position to make immeasurably greater use of Balkan opportunities than the Muscovite empire.

Access to the Persion gulf by the Bagdad railway, financed by German capital, is becoming more and more of a necessity. Austria had an important stake in the Balkan situation, speaking from a commercial standpoint; but in other respects also she had a stake unlike that of Russia. There is no Slav problem in Russia, but there has been a Slav question in Austria-Hungary, antedating the occupation of Bosnia and Herzegovina under the treaty of Berlin. Her possession of many Slav nationalities was repeatedly described as a danger. The large concessions, however, that the Dual Monarchy had to make to the Czechs and other Slav elements, like the concessions to the Magyars, tended to preserve the unity of Austria-Hungary in the form of a loose but strong federation. If war with Russia had not arrested this movement it would probably have been gradually extended.

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so as to result in a widening diffusion of liberal political institutions in Austria-Hungary without dismembering the collective state. Reform of this description, if pressed for by violent agitation, would have split the Dual Monarchy and would have led to disorder felt throughout Europe. It therefore becomes an urgent necessity for Austria-Hungary to suppress the spirit of lawless revolt within her territory, and to quell anti-Austrian intrigues in neighboring Slav states. The friendship of the Balkan peoples was indispensable to Austria if she was to continue her existence as a united state, whereas such a thing is of no vital concern to Russia.

Thus Austria had a real political interest and also a real economic interest in the Balkans, whereas the interest of Russia is almost entirely sentimental, in the region of vague aspirations which have about them an atmosphere of supererogation.

As the nature of the Serbo-Bulgarian boundary dispute comes to be better understood, and the Bulgarian claim comes to be recognized as the sounder of the two, the attitude of Austria in entering into the secret agreement of 1881 with Servia is seen to have taken rather too much for granted. But objectionable as secret treaties are, it is probable that the agreement was entered into in good faith, in the belief that the territorial claim was a fair and reasonable one. The Austrian position was now strong enough not to be assailed, in view of the Austro-German alliance. Austria was not content, however, with limiting her attention to Servia, but at the time of the union of Bulgaria and Eastern Rumelia she took a hand in Bulgarian affairs, seeking to repel Russian intervention. Only the existence of the Triple Alliance now averted war between Russia and Austria. This episode goes to prove that Austria was not forced into a mood of absolute hostility to Bulgaria by her own Servian alliance. Her subsequent conduct is explainable, however, only on the theory that she saw danger in Bulgarian pretensions. The secret treaty with Roumania was unfavorable to Bulgaria. If she had any premonition of the approaching first Balkan war, in which Bulgaria was to take an important part in the attack on Turkey, her misgivings may well have been justified. The agitations in

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Bulgaria and Macedonia helped to enkindle an anti-Austrian spirit even in Servia, where Austria saw her power waning. Doubtless that loss of power, with the consequent danger on her own frontier, was what prompted the forcible annexation of Bosnia and Herzegovina in 1908. In its ultimate consequences that act tended to intensify the revolutionary spirit in Servia and Bulgaria and to hasten the first Balkan war. After the Balkan wars were over Servia, instead of being satisfied with the territory gained, was still resentful toward Austria, and gravitated toward Russia as a power from whom she might hope to secure more than from Austria.

A solution of the Balkan question in accord with the principles of justice might not be far to seek, if the claims of Russia be eliminated and the necessity of keeping the western door open to European civilization and commercial development be conceded. Of course Russia is unlikely to consent to being eliminated. But other powers might demand such elimination with better cause than that for which they opposed Russia at the Congress of Berlin. At that time Russia had waged the Russo-Turkish war alone and might seem entitled to claim the fruits of her victory; she has now had the assistance of the arms of Great Britain and of France, and should be more willing to listen to their persuasion. Whereas the motive most in evidence at that conference was that of curbing Russian expansion, the Powers can now act with the purer motive of lending support to the aspirations of Balkan nationality and of securing the peace of Europe. In the absence of any vital economic interest of Russia in the Balkan peninsula, and of any racial or religious interest that is material rather than sentimental, they can insist that Russia keep her hands off the Balkan states. If the powers do not thus act, the course of events will hardly fail to force the elimination of Russia, for a third Balkan war, waged this time against Russia, would be virtually certain to bring about the independence of the Balkan states under some degree of European support.

Whatever the fate of Austria-Hungary, its peoples cannot be wiped off the face of Europe. Some strong state or combination

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of states, is certain to command the gateway between the Balkans and the civilization of western Europe. If the Balkan states are to develop politically, intellectually, and commercially this gateway must be kept open; if they are to be reclaimed from their semi-civilization in the interest of European peace and security, while they need not actually be placed under the tutelage of more advanced peoples, they must at least be held to a rigid observance of their duties toward more orderly and progressive communities. The building of railways and the establishment of colleges and technical schools must be continued, and western capital and philanthropy must find ready access to a region which must be developed both for its own prosperity and for the assurance of European stability. There are certain obligations that need to be carefully defined in treaty stipulations, and it may be advisable to authorize some western power to intervene under appropriate circumstances for purposes of police, for such an arrangement as that between the United States and Cuba does not seriously impair the sovereignty of a small state.

The solution actually to be formulated should not be left wholly to any interested state, but an international commission should meet to investigate the subject exhaustively and to propose adjustments to be given effect to by treaties. As even the most perfect arrangement would not assure the non-occurrence of future controversies, there should be provision for a renewal of the international commission, really acting on behalf of the Concert of Europe, at the instance of any state asking for it. The commission could consider the settlement of boundaries in accordance with the principle of nationality, the subject of customs conventions and commercial privileges, the extent of the right of a western state to intervene for the preservation of public order, and other questions likely to excite dispute. The effectuation of the commission's program should be brought about through the moral support, or if necessary through the actual intervention of a majority of the European powers if not of the whole European concert.

In time the complete autonomy of the Balkan states and their consolidation in some sort of stable federation, no longer inimical

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to European peace, is likely to be achieved. In the meantime, by every law of economic and political development, partial dependence upon some more powerful neighbor in the family of states becomes inevitable. For the present Servia and Bulgaria are both weakened by their own rivalry. Eventually this jealousy will be overcome, and close coöperation will be established, but in the meantime Servia and Bulgaria, which in the nature of things cannot be annexed to Russia, and cannot possibly submit for any length of time to a Russian protectorate, would naturally gravitate toward a western neighbor, to whom along with Roumania and Montenegro they might look for the development of their trade and their protection from foreign aggression.

The "danger zone of Europe" will continue turbulent and menacing until Time arbitrates the dispute as man may not, by acting promptly enough, be able to arbitrate it. Stability in the Balkans, and in Europe generally will be attained only when the Balkan States are freed from their dread of each other and of the Great Powers, and the rights and obligations of the Great Powers with respect to them have been determined. Large states are ordinarily more stable and orderly than small, for the problem of maintaining internal order is never so formidable as that of preserving order beyond the frontier and of peaceably adjusting outside relations. The peace of Europe thus requires ultimately a strong federated Balkan state, averse to all outside interference and able to maintain order in its own territory. But in the meantime, while this is being formed, the attachment of the Balkan States to some more powerful state which will regulate their growth and insure their welfare and contentment is required. As the god of war is a poor statesman the European conflict does not relieve the world of its duty to formulate a rational solution of the Balkan dispute, and such a solution is necessary to avoid needless future wars.

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OUR RELATIONS WITH JAPAN[1]

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The rise of Japan within the span of one generation from the condition of a weak feudalized state, shut off from all contact with the western nations, to the position of a world power dominated by a desire to shape the destinies of Eastern Asia and ready to dispute with other powers the control of the Pacific, constitutes one of the most dramatic stories in the whole range of history. The rapid assimilation of western ideas and the successful appropriation of all the material elements of western civilization are without a parallel.

Dr. Nitobé, whom we are glad to recognize not only as a great scholar but as a great writer of English, in his remarkable book, *Bushido, the Soul of Japan,* describes with great power and beauty the idealism of the Samurai, or gentlemen of Japan of a generation ago, but while the old spirit still flashes out occasionally as in the spectacular, and to us meaningless, suicide, on the occasion of the funeral of the late Emperor, of one of his most distinguished subjects, General Nogi, we cannot help believing that the Japanese have outgrown their idealism; that they cast it aside when they discarded their mediaeval weapons and abandoned their self-complacent exclusivism. The Japanese are the greatest materialists in the world today, for it is the material elements of western civilization that they have appropriated and to which they owe their success in two wars. A nation of materialists, fired with ambition and military ardor, are going just as far in their aggressiveness as sheer force will carry them. That is why Japan with her present ambitions is so generally regarded as a menace to the peace of the world.

[1] This article was delivered in substantially its present form as the Convocation Address at the University of Chicago, August 29, 1913.

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The growth of the Japanese naval power is a matter of vital interest to the United States, because the United States and Japan are the two leading powers of the Pacific. It is not likely that Great Britain, in spite of her possessions in British Columbia, Australia, and New Zealand, will ever contend for primacy in that ocean. She has naval problems that are too pressing in other quarters of the globe. Russia has received a check that will delay her naval development for many years to come. While China may some day emerge to challenge the position of Japan and the United States, it is not likely that any of us will live to see it. At present therefore the United States and Japan are the two rivals for naval supremacy in the Pacific.

The leading public men of Japan and the United States are continually assuring us that the official relations between the two countries are, and always have been, most cordial; and that while the United States forced western civilization upon Japan at the mouth of the cannon, the Japanese have always been profoundly grateful to us for so doing; that the only monument ever erected on their soil to a foreigner perpetuates the memory of Commodore Perry on the spot where he landed—the spot, the inscription declares, "on which the modern civilization of our Japanese Empire had its beginnings." In the great transformation which Japan has undergone she has drawn more largely on the United States than on any other nation. This is because the United States has been pre-eminently a successful nation and Japan worships success. Many of her leading men were educated in this country. The United States furthermore took the leading part in freeing Japan from the burden and humiliation of ex-territoriality and welcoming her into the family of nations with full international status.

Nations however are no more mindful of past favors than are individuals. Traditional friendship cannot always stand the strain of changed conditions and conflict of interest. No one can deny that rivalry and animosity have arisen since the Russo-Japanese war. It is claimed, it is true, that this is largely due to yellow journalism in America; that certain interests have been assiduously fomenting discontent for commercial gain; that

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advocates of a large navy annually fill the press with "dope" on the imminence of war with Japan; and that organized labor on the Pacific Coast, in order to maintain the western standard of living, deliberately keeps alive the fires of race antagonism. All this may be true in a measure, but nevertheless the aggressive attitude of Japan in Manchuria and in California and the development of race antagonism in this country are factors that cannot be ignored.

As one of Japan's chief ambitions today is to shape the destinies of China, it will be well for us to review briefly the policy of the United States with reference to China since the threatened partition of that country fifteen years ago. Although the downfall of China had been freely predicted after the revelation of her inherent weakness in the war with Japan, the suddenness with which she fell a prey to the greed of the western nations was the sensation of the closing years of the nineteenth century. The rivalry of the European powers in the commercial exploitation of China in 1897–98 served to emphasize, more than ever before, the fact that commerce has become the greatest of all political interests, and that the primary object of diplomacy is the extension of trade relations and the maintenance of foreign markets. To the attainment of these ends armies and navies are mere accessories.

The occupation of Kiao-Chau by Germany in 1897, followed a few months later by a ninety-nine year lease and important concessions in the Shantung Peninsula, the Russian lease of Port Arthur in 1898, the British lease of Wei-Hai-Wei, and the French occupation of Kwang-Chau, all coming within a few months of each other, are now too well known to be recalled in detail. Having established themselves in strategic positions on the shores of the Gulf of Pechili and holding China by the throat, so to speak, Germany, Russia, and England proceeded to dictate the terms they desired. In addition to cessions of territory, extensive concessions for the construction of railways and mining privileges were granted to each power in its particular "sphere of influence," in utter disregard of the "most-favored-nation" clauses of existing treaties. The movement for the par-

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tition of China was well under way when the United States went to war with Spain and the Philippine Islands came within its grasp. To seize a "sphere of influence" in China seemed utterly repugnant to the traditional policy of the United States, and would not have been acquiesced in by the Senate. But the occupation of the Philippines, it was thought, would give a point of vantage from which the American government could exercise a decisive influence in the Orient. Such considerations were probably the main factor in President McKinley's decision to retain the Philippines.

Americans generally are under the impression that Secretary Hay's "open-door" policy in China, of which we heard so much a few years ago, was a great success. As I entered the imposing John Hay Memorial Library in Providence a few weeks ago I read with a mental reservation this inscription: "To John Hay who maintained the open door and the Golden Rule." The policy for which he stood was indeed a great policy, nobly conceived and nobly proclaimed, but it was not successfully maintained. The open-door policy was first outlined by Secretary Hay in notes dated September 6, 1899, and addressed to London, Berlin, and St. Petersburg. Each of the powers addressed was requested to give assurances and to make declarations to the effect: (1) that it would not interfere with any treaty port or vested interest in its so-called "sphere of influence;" (2) that the Chinese tariff should continue in force in such sphere and continue to be collected by Chinese officials; and (3) that it would not discriminate against other foreigners in the matter of port dues or railroad rates. Similar notes were later addressed to France, Italy, and Japan. England alone expressed her willingness to sign such a declaration. The other powers, while professing thorough accord with the principles set forth by Mr. Hay, avoided committing themselves and no such declaration was ever made. Mr. Hay made a skilful move, however, to clinch matters by informing each of the powers to whom the note had been addressed, that in view of the favorable replies from the other powers, its acceptance of the proposals of the United States was considered "as final and definitive."

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The real intentions of the powers as contrasted with their professions became apparent in the discussions that soon arose as to the status of consuls in the various spheres of influence. Japan claimed that sovereignty did not pass with a lease and that even if China should surrender jurisdiction over her own people the lessee governments could not acquire jurisdiction over foreigners in leased territory. This position was undoubtedly correct if the territorial integrity of China was really to be preserved, but after negotiations with Russia and the other powers concerned, the United States unfortunately felt compelled to concede the vital point, for on February 3, 1900, Mr. Hay wrote to Minister Conger that "the United States consuls in districts adjacent to the foreign leased territories are to be instructed that they have no authority to exercise extra-territorial consular jurisdiction, or to perform ordinary non-judicial consular acts within the leased territory under their present Chinese exequaturs."

Application was then made to the European powers for the admission of American consuls in the leased territories for the performance of the ordinary consular functions, but in no case were they to exercise extra-territorial jurisdiction within a lease, although in some cases they retained this power in the adjacent territory or sphere of influence.

The rapid exploitation of China, involving as it did the introduction of new ideas and new methods and much that was offensive among the most conservative of all peoples, naturally aroused an intense anti-foreign sentiment and led to the Boxer uprising. Events moved with startling rapidity, and United States troops took a prominent part with those of England, France, Russia, and Japan in the march to Peking for the relief of the legations. In a note to the powers, July 3, 1900, Secretary Hay, in defining the attitude of the United States on the Chinese question, said: "The policy of the government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese empire."

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During the long negotiations that followed the occupation of Peking by the powers, the United States threw the weight of its influence on the side of moderation, urging the powers not to impose too many burdens on China and declaring that the only hope for the future lay in a strong, independent, responsible Chinese government. Mr. Hay displayed great skill in giving to the world at a critical moment a definite expression of policy, and in urging the powers to observe it.

Contrary to the terms of the final protocol, however, Russia retained in Manchuria the troops concentrated there during the Boxer movement, with a view to exacting further concessions from China. The seriousness of the situation led England and Japan to sign a permanent defensive agreement January 30, 1902, recognizing England's interest in China and Japan's in Korea, and providing that if either party should be attacked in defense of its interests the other party would remain neutral, unless a third power joined in, in which event the second party would come to the assistance of the first. A formal protest made by the United States, February 1, against some of the demands Russia was making on China led Russia to conclude that the American government had an understanding with England and Japan, but Mr. Hay gave the assurance that he had known absolutely nothing about the Anglo-Japanese agreement until it was made public. He succeeded in securing from Russia, however, a definite promise to evacuate Manchuria by October 8, 1903, which was the date set in the Russo-Chinese Manchurian convention of April 8, 1902. As the time for withdrawal drew near, Russia began imposing new conditions on China, and deliberately misrepresented to the United States the character of the new proposals.

After the suppression of the Boxer uprising China had agreed to extend the scope of her commercial treaties with the powers. When the negotiation of a new treaty was begun by Consul-General Goodnow at Shanghai, the United States demanded that at least two new ports in Manchuria be opened to foreign trade and residence. The Chinese commissioners declined to discuss this subject, on the alleged ground that they had no instructions

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to do so. It was evident that there was secret opposition somewhere, and on May 7, 1903, Mr. Conger reported that it came from the Russian chargé d' affaires. Later he secured a written acknowledgment from the Chinese government that such was the case. Meanwhile Russia was giving positive assurances at Washington that she was not opposed to open ports and consulates in Manchuria. Mr. Hay then appealed with the utmost directness to the Russian government, stating that the negotiations with China were substantially terminated, with the exception of the question of the open ports in Manchuria, and that the Chinese government still claimed that it was prevented from coming to an agreement on this point by Russian opposition; he requested to know whether instructions had been sent to the Russian minister at Peking, and, if not, that prompt action be taken. The Russian government promised to send the necessary instructions, but when Mr. Conger approached the Russian minister at Peking, the latter replied that the matter had been taken out of his hands, and that he had been instructed to await the result of the discussion of the question at Washington.

After this sort of evasion had gone on for a month, on July 14, a definite answer was at length received from Russia, in which she declared that it had never entered into her views to oppose the opening of certain cities in Manchuria to foreign commerce, but that this declaration did not apply to Harbin, one of the cities selected by the United States, which was situated within the railway zone, and therefore was not under the complete jurisdiction of China. A copy of this note was shown to the Chinese government, which finally agreed to insert in the treaty a provision for the opening of two ports outside the Russian zone. The United States agreed to this arrangement, and on October 8 the treaty was signed, and Mukden and Antung named as the open ports. By thus excluding the United States from the railway zone, Russia again succeeded in thwarting the efforts of Mr. Hay to establish the principle of the open door. "The administrative entity" of China was utterly ignored. If the United States had had a stronger navy in the Pacific, Mr. Hay's diplomacy might have been more effective.

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Japan now stepped into the breach and took up the fight in Manchuria. The presence of Russian troops on the soil she had won in the war with China and lost through Russian diplomacy was more than she could stand. After long negotiations, Japan presented to Russia, on January 16, 1904, an ultimatum in which she stipulated: (1) that Japan would recognize Manchuria as being outside her sphere of interest, provided Russia would respect the territorial integrity of China in Manchuria; (2) that Russia would not impede Japan or other powers in the enjoyment of rights and privileges acquired by them in Manchuria under existing treaties with China; (3) that Russia would recognize Korea as being outside her sphere of interest. After waiting for what she considered a reasonable time for a reply, Japan withdrew her minister from St. Petersburg, and on February 10, 1904, issued a formal declaration of war. The memorable war that followed revolutionized the political situation in the Far East.

The services of President Roosevelt to the cause of peace in bringing Russia and Japan to a conference within the United States in 1905 have received wide recognition, and doubtless constitute a notable diplomatic achievement, though it is now an open secret that Japan, realizing that her resources were well-nigh exhausted, made the first move and asked Roosevelt to intervene. Unfortunately the President was not satisfied with having brought the commissioners together, but kept in close touch with them and took a too active part in the negotiations. In the treaty of Portsmouth Russia and Japan agreed to evacuate Manchuria with the exception of the Liaotung peninsula; the Russian leases of Port Arthur, Talienwan, and adjacent territories and territorial waters were to be transferred, with the consent of China, to Japan; the Southern Manchurian Railway was transferred to Japan, while the Eastern Railway in Northern Manchuria was retained by Russia.

While the treaty of Portsmouth was being negotiated, England and Japan signed a new treaty of alliance for the protection of England's interests in India and Japan's interests in Korea, and also for the preservation of Chinese territorial integrity and the principle of commercial equality of all nations.

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During the war between Russia and Japan the sympathies of the American people were very largely with Japan, partly because her resources were more limited, and partly because the underhand methods of Russian diplomacy had created an unfavorable impression. But no sooner had the Russian plenipotentiaries set foot on American soil than Count Witte drew to himself the sympathetic interest of the public. This was due in part to his striking personality, and in part to the realization that the odds were greatly against him. After each session of the commission he talked freely to the group of reporters who gathered around him, while the Japanese envoys retired to their rooms and denied themselves to all newspaper men. Public opinion undoubtedly helped the Russian negotiations. The result was that the Japanese envoys went home somewhat disgruntled, and with at least an outward resentment, because they had failed to get an indemnity, and had been forced to relinquish their claims to half of the island of Saghalien.

Japan's great military triumph had again, as in 1895, been followed by a diplomatic defeat, and for this defeat Japanese public opinion held President Roosevelt responsible. Their commissioners had failed to get any part of the $600,000,000 indemnity which their government had instructed them to demand, and they felt it necessary to shift the burden from their own shoulders. However this may be, the strained relations between the United States and Japan date from the negotiations at Portsmouth. That President Roosevelt acted for the best interests of Japan in urging them at the last to forego all indemnity may readily be admitted, for the opinion was expressed by many of the foreign military critics who were sent to observe military operations, that if the war had continued six weeks longer the tide would have turned in favor of Russia. Japan was getting farther and farther from her base of supplies every day and Russia was drawing nearer to hers. The Japanese authorities knew this perfectly well, but they did not care to admit it.

The Russo-Japanese war was scarcely at an end before an extensive boycott of American goods was organized in Northern China. The nominal, and perhaps the real reason for this anti-

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American outburst was the harsh treatment accorded Chinese in the United States. Fortunately the Chinese government succeeded in checking the boycott, but not until it had caused heavy losses to Americans. There was a strong suspicion throughout the United States that this movement was instigated by Japanese agents with the object of supplanting American by Japanese commerce.

During the period of the Boxer uprising the United States more than any other power was, as we have seen, anxious to maintain the integrity of the Chinese Empire and the independence of the Chinese government. Japan was at that time in thorough sympathy with that purpose. What does Japan think of the open-door policy today? The situation in the East now, as at the beginning of the Russian war, hinges on Manchuria. Let us review briefly the rapid advance made by Japan in Manchuria since the Russian War. By the treaty of Portsmouth the Southern Railway of Manchuria was ceded to Japan while Russia retained the Eastern Railway. Immediately after the signing of the treaty of Portsmouth it is said that Marquis Ito, who represented the conservative Japanese party, proposed a lease of the Southern Railway to Edward H. Harriman and a group of American financiers in order to place America as a buffer between Russia and Japan. This tentative offer to Harriman was made before Komura, the principal Japanese negotiator of the Portsmouth treaty, left the United States. When, however, Komura reached Tokio he at once opposed the Ito-Harriman agreement, and it was abandoned. From this period dates the new Japanese policy. Komura and Katsura, the representatives of the war party, insisted that Japan must retain all she had acquired from Russia in Manchuria and use it as a base for Japanese expansion on the continent. The new Japanese policy involved a division of Chinese sovereignty in Manchuria and a full recognition of the exclusive right of administration which Russia had claimed in the railway zones under her agreement of 1896 with China. Japan proposed to recognize Russian administration in Northern Manchuria, provided Russia would recognize Japan's administration in the Southern Railway zone, but these overtures were declined by Russia.

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At the close of the war Russia had likewise made an effort in Wall Street to lease her railways in Northern Manchuria to American financiers, but this effort proved fruitless. Japan at once saw that the lease of Russia's railways to Americans would mean the strengthening of Chinese sovereignty in Manchuria and the defeat of her own schemes. She therefore did everything she could to prevent it. As Russia persisted, however, in rejecting the Japanese proposals, Japan began, under the principle of the open door, to push Japanese commerce into Northern Manchuria. It was at this juncture that the exchange of notes between Japan and the United States (November 30, 1908) occurred, in which Japan formally reasserted her adherence to the open-door policy. This was a clever move, because it secured American support for Japanese aggression. Marquis Ito, who was opposed to Japanese expansion until the nation could recuperate from the effects of the war, and who to the last denied that Japan would annex Korea, was finally sent to Harbin to confer with the Russian Minister of Finance. He was forced by his political opponents to become the agent for carrying out their policy, but he was assassinated at Harbin before making known the object of his mission. The United States had meanwhile been watching the situation with uneasiness, and Mr. Knox in a desperate effort to rehabilitate the open-door policy, made the famous "neutralization proposal," which was that the railways of both Russia and Japan should be purchased and neutralized by the powers. Both Russia and Japan rejected Mr. Knox's solution of the question. Russia had now to face the issue of losing control in Manchuria or coming to an agreement with Japan. She chose the latter alternative and yielded to the proposals which Japan had been urging for four years. On July 4, 1910, a convention between Russia and Japan was signed at St. Petersburg. The following are the most important provisions: "(2) Each of the high contracting parties undertakes to maintain and respect the *status quo* in Manchuria resulting from all the treaties, conventions, and other arrangements concluded up to this date either between Russia and Japan or between those two powers and China. Copies of the said arrangements

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have been exchanged between Russia and Japan. (3) In the event of anything arising of a nature to threaten the *status quo* mentioned above, the two high contracting parties shall enter each time into communication with each other with a view to coming to an understanding as to the measures they may think it necessary to take for the maintenance of the said *status quo*."

The comments made at the time by the American press, and even by government officials, show how little the real situation was understood. By the *status quo* in Manchuria Americans thought was meant the open-door policy, but the treaty speaks of a different *status quo*—"the *status quo* in Manchuria resulting from all the treaties, conventions, and other arrangements concluded up to this date either between Russia and Japan or between those two powers and China." The documents referred to included the railway concessions made by China to Russia in 1896 and in 1898, and communicated by Russia to Japan in accordance with a secret agreement made at Portsmouth, of which the United States was apparently unaware.

While Japan vigorously opposed the division of Chinese sovereignty when Russia alone was the aggressor, she now adopted that principle as her chief policy of state. The annexation of Korea and the understanding with Russia in Manchuria are great triumphs for Japanese diplomacy. Japan's repudiation of the open-door policy in Manchuria, however, has been a great strain on her relations with the United States and a potent factor in keeping alive the war scare. However, the situation is not as bad as one might suppose at first sight. Japan wants peace in order to recuperate from the financial embarrassment of the Russian war. She has, therefore, acquiesced in the rehabilitation of China. The thing she most feared was the military occupation of China by some of the great powers. That possibility seems now removed by the Chinese revolution and the organization of the republic. Although uneasy about the appearance in the East of republican institutions, which may soon undermine the Mikado's throne, Japan has outwardly, at least, extended her sympathy and encouragement to the Chinese revolutionists. It is worthy of note that the revolutionary disturbances occurred in the region where most of

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the foreign capital is invested and drew the attention of Europe and America to the spot, thus diverting attention from Manchuria, where Japan was making rapid advances. As far as the Chinese revolution is concerned, Japan and the United States are now in accord. But, Japan is playing for time, and leaving expansion outside of Manchuria to the future course of events. The outcome is altogether too problematical for the present discussion.

Meanwhile the attitude of the Japanese government with reference to its subjects in California appears to most Americans to be one of aggression. The demands of the Japanese government with reference both to the school question and to alien landholding have raised questions that are not only delicate from a diplomatic point of view, but that are difficult for the American government to handle from a constitutional point of view.

During the latter part of October, 1906, the American public suddenly became aware of the fact that an active anti-Japanese agitation was in progress in California. The San Francisco school question created intense excitement throughout the country, and the press was filled with discussions as to whether the United States had the constitutional power to make a treaty which would override the laws of a state. While the old question of state-rights was thus being hotly debated, the really significant question as to whether the Japanese treaty conferred school privileges was almost ignored. The treaty quaranteed to Japanese subjects in the United States, in "whatever relates to rights of residence," the same privileges, liberties, and rights as native citizens, or citizens or subjects of the most favored nation. The question as to whether the right to attend the public schools is a right of residence is open to debate; but even granting that it is, California did all that could have been justly demanded of her under the treaty when she furnished equal, if not identical, school facilities.

But the school question was not the real question at issue; the San Francisco school authorities could easily have excluded Japanese men from association with little children in the lower grades, which was the main ground of complaint, by the adoption of an age limit which is usual in most city schools. The real

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question was the exclusion of Japanese laborers from competition with American laborers, and the assignment of Japanese children to a separate school was merely an incident in a general agitation against Japanese begun by the labor unions of California.

The question was adjusted, temporarily at least, without being pushed to a conclusion in the courts. Japan declared that she did not wish her subjects to come in large numbers to the United States, and for some time it had been the practice of the Japanese government not to issue passports to laborers desiring to come to the United States, though passports were issued for Hawaii, Canada, and Mexico, the holders of which in many cases entered this country. Relying upon a continuance of this policy, Congress inserted in the immigration act of February 20, 1907, a clause authorizing the President to exclude from the continental territory of the United States holders of passports issued by any foreign government to its citizens to go to any country other than the United States or to the insular possessions of the United States or to the Canal Zone. March 14, 1907, the President issued an executive order directing that Japanese laborers coming from Mexico, Canada, or Hawaii be refused permission to enter the continental territory of the United States. The San Francisco school board thereupon agreed to admit Japanese children to the ordinary schools under certain conditions of age and ability to use the English language.

The California school question proved, however, to be a mere incident in the development of a strong opposition to Japanese immigration to the Pacific slope. This anti-Japanese feeling has again manifested itself in the land legislation enacted by the legislature of California in 1913. The law, as finally passed, grants the right to acquire agricultural land to all aliens who are eligible to American citizenship, and grants to other aliens the right to acquire land in a manner and for the purpose prescribed in any treaty now existing between their government and the government of the United States. The treaty between the United States and Japan signed at Washington, February 1, 1911, contains the following provisions in regard to the holding of property: "The citizens or subjects of each of the high contracting

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parties shall have liberty to enter, travel, and reside in the territories of the other, to carry on trade, wholesale and retail, to own or lease and occupy houses, manufactories, warehouses, and shops, to employ agents of their choice, to lease land for residential and commercial purposes, and generally to do anything incident to or necessary for trade upon the same terms as native citizens or subjects, submitting themselves to the laws and regulations there established."

The failure of this treaty to specify agricultural lands while referring specifically to real estate used for residential or commercial purposes, would appear to make it conclusive that the Japanese have no right under the treaty to hold agricultural lands. It is furthermore claimed that the Japanese government does not grant to Americans in Japan the rights which it claims for its subjects in California. This is certainly true of certain districts, in which foreigners are by statute expressly declared incapable of owning land.

Neither President Wilson nor Mr. Bryan has admitted, so far as I have seen, that the California law is a violation of the treaty, though they urged moderation on the part of the California legislature because of the apparent discrimination against Japanese as compared with other aliens. Technically, California appears to have assumed an unimpeachable legal position in expressly safeguarding the treaty rights of aliens. It remains for the federal courts, in case Japan continues to press her protest, to determine whether the law violates the treaty or not. There is no doubt in my mind that if it should be ascertained by the Supreme Court of the United States that the treaty rights of Japanese had been violated, the California law would have to give way to the treaty. The Constitution of the United States declares (Article 6, clause 2): "This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

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There is no limitation expressly imposed by the constitution on the treaty-making power. Some writers claim that a treaty to be binding must be made in accordance with the general distribution of powers between the federal government and the States; that therefore a treaty cannot infringe on the police powers or reserved rights of the States. No such view was held by the founders of the government. Under the Articles of Confederation treaties were continually violated by the States, and the framers of the Constitution deliberately planned to prevent such a condition for the future. The opponents of the Constitution in the federal Convention and in the ratifying state conventions protested against the unlimited nature of the treaty-making power.

The Constitution provides that all treaties made "*under the authority of* the United States" shall be the supreme law of the land. The clause immediately preceding this says: "This Constitution, and the laws of the United States which shall be made *in pursuance thereof*," etc. That is to say, the laws enacted by Congress must be made *in pursuance of* the Constitution, but in the case of treaties the only limitation is that they must be made "*under the authority of* the United States." A foreign nation in negotiating a treaty does not have to inquire whether it is in conflict with the Constitution of the United States or the constitutions and the laws of the States; the only point it has to safeguard is that the treaty shall be negotiated under the authority of the President and shall be ratified by the Senate.

A treaty dealing with a question not properly the subject of international agreement would not be valid, that is to say the treaty-making power must be exercised in good faith. The status of aliens is undoubtedly a proper subject of treaty negotiation. While, therefore, a case might arise in which a treaty would be declared unconstitutional by the Supreme Court of the United States, such a decision is hardly a possibility in the case we are now considering. While there are to be found in the opinions of the Supreme Court certain *dicta* to the effect that a treaty that invades the reserved rights of a State is unconstitutional, no case has been decided that way. On the other hand

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there are a number of cases in which treaties have been upheld, notwithstanding the fact that they have invaded the reserved rights of the States.

In the California case, however, it does not appear to be a case of legal right but a question of policy. The Japanese resent discrimination of any kind particularly where racial antipathy is present. The repeated protests of Japan have created a serious situation. After all it is not the California law which discriminates against the Japanese, but the United States law which excludes them from naturalization. The United States would have a perfect right to pass an act allowing Japanese to come freely to our shores and to become citizens. As citizens of the United States California could not under any pretense of police powers or reserved rights discriminate against them, but it is not likely that the United States will adopt such a policy.

Meanwhile the present legal status of Japanese immigration is very unsatisfactory, and may be changed by Japan at will. The situation therefore calls for treaty regulation. What are we to do about it? What will Japan be willing to do? These are questions of a very delicate nature that will require careful and patient handling on the part of Japan as well as on the part of the United States. The surprising thing is that Japan gives no evidence of regarding patience as a virtue. To discern her real motive is a difficult problem and the conjectures that naturally arise are not calculated to promote peace and friendly feeling.

Thus far, we have said nothing about Hawaii or the Philippines. It may be seriously questioned whether Japan wants either. Her experience in Formosa is not encouraging. She is bent rather on westward expansion into the continent of Asia. But the Philippines are a sort of hostage to American fortune in the Orient. We must be conciliatory to Japan in Manchuria, in Hawaii, even in California, or Japan will seize the Philippines and coolly challenge us to take them back! The Philippines are a serious handicap to American diplomacy because they are an advanced and indefensible outpost. War with Japan is, in my judgment, not a present probability—hardly an immediate pos-

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sibility—but peace with Japan does not rest so much on traditional friendship or a sense of past obligations as on Japan's present inability to finance a war, and on our present inability to defend the Philippines in the event of war. In assuming such an aggressive attitude in the spring of 1913 Japan was merely taking advantage of our temporary embarrassment to extort from us certain concessions. With the Philippines exposed to attack, the Hawaiian Islands inadequately fortified, the Panama Canal not then completed, and the Mexican situation on our hands, she thought the time was favorable for a diplomatic move. In this she displayed greater shrewdness than wisdom. The Japanese government will be satisfied with nothing short of the admission of Japanese immigrants to American citizenship, and this we are not likely to grant. The Pacific coast states do not want the Japanese to come to their shores. It would be a serious mistake, therefore, for the United States government to yield to Japanese pressure. Concessions would mean more Japanese and more Japanese would mean the further development of race antagonism and the further straining of diplomatic relations.

The real point of offense is that the law of the United States limits naturalization to "white" persons and persons of "African" nativity or descent. Under the interpretation of this statute, which was passed in 1870, members of the yellow races are excluded from citizenship. The Japanese resent being classified with the non-progressive yellow races. They feel that as a race they have made good and should be treated on a par with the races of Europe. They claim that on the average they are superior to the European immigrants of today. This is perfectly true, and it is further true that the American people do not regard the Japanese as in any sense an inferior race. On the contrary they challenge our highest admiration, and the superior industrial efficiency of the Japanese laborer is one of the main causes of the anti-Japanese agitation in California. But when all this is said the fact remains that the Japanese springs from a historical environment which has no traditions in common with ours, that he has an intense pride of race and nationality, that his standard of living is different from ours, and that, notwithstanding the fact that

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he has remarkable powers of adaptability, it is very doubtful whether he has either the desire or the capacity for assimilation.

The Japanese question has been discussed too much as if it were a local issue, when as a matter of fact the real issue is a question of national policy. Either Japan must agree to regulate the immigration question by treaty, or Congress will be compelled to regulate it by legislation.

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THE CITY MANAGER PLAN, THE LATEST IN AMERICAN CITY GOVERNMENT

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Scarcely have we become accustomed to the thought that commission government for American cities, unknown fifteen years ago, has taken a permanent and important place in our municipal development when we hear on all sides discussion of a still newer form called the city manager plan. To judge from present indications it seems not unlikely that the phenomenal spread of the commission form will be repeated in the case of this latest development. It becomes a matter of interest therefore to examine into this innovation in American municipal government and to see what elements of strength and weakness it may show and how it is related to our other forms.

If we regard as the essential characteristics of commission government the union of all powers of the city, legislative and administrative, in the hands of a small body of men, each one charged with the responsibility for the proper administration of one of the departments, we may characterize the city manager form by stating that the immediate duty of directing the administration of the city's affairs is imposed upon a single, professional official chosen by the representative body of the city.

There has been some difference of opinion among students of city government as to whether or not the city manager plan should be regarded as a new form of government as compared with the commission form, as for instance the commission form was new as compared with the old mayor and council form, or whether it should properly be designated as merely a variation of the commission form. Such a controversy is likely to become very unprofitable because there is no hard and fast criterion as

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to what is to be considered the most characteristic feature of commission government, nor on the other hand as to what is to be regarded as the final test of the existence in a given city of the city manager plan. If we consider the ultimate distinguishing feature of commission government to lie in the union of all local powers in a single body (and that would seem to be a proper view of the fundamental nature of that form) and if we insist, as do some authorities in matters of city government that only those cities which have a single governing body with managers are to be considered among the chosen few, then we are forced to conclude that the city manager plan is merely a variation of commission government. But on the one hand some writers on commission government and advocates of that form are insistent that one of the fundamental and very praiseworthy characteristic features thereof is the assignment of departments to different members of the commission making them personally responsible for the administration of such departments. If that is one of the tests of commission government, then clearly the city manager plan even though operating with a commission, is a departure from commission government as defined by these writers. On the other hand it is possible to have a city manager in a city operating under the mayor and council form, as was the case in the original general manager city, Staunton, Va., in which case clearly there is no manner of connection between the city manager feature and commission government.

We need not be concerned with the solution of this largely verbal controversy. But it is necessary for the purpose of the examination here undertaken to understand how the terms "commission government" and "city manager plan" which will frequently be employed are used. Whether or not it would be possible to call a city a commission governed city if the work of administration were not divided among the members of the commission, certain it is that that feature is found in all, or at least in virtually all of the so-called commission cities, and it will therefore be considered as a general if not essential attribute.

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With regard to the nature of the governing body of the city in which a city manager is to be employed, the matter is not so simple. The first city in this country to provide for a city manager was Staunton, Virginia. There, however, the old mayor and council form of organization was retained. Some other cities since that time have provided by ordinance for the position of city manager without changing their form of government in other respects. The combination of commission government features with the city manager idea was not put into practice until after Staunton had made the first move. Yet certain authoritative bodies concerned with city government exclude from their definition and from the consideration of the history of the city manager movement the city which first employed a general manager, and give credit to Sumter, S. C., as being the first city manager city because it was the first to combine commission and manager.

Now it does not seem quite clear that such a course is justified. The general manager feature as introduced in Staunton and some other cities can show at least some of the advantages claimed for the city manager plan as defined by the authorities mentioned above, for instance the application of the principle of a single administrative head chosen not by the electorate but appointed because of special knowledge and training. It would never do therefore to dismiss this original manifestation of the plan as wholly without merit.

However, it is true that the city manager feature has a better chance of successful application in cities governed by a commission and most of the cities that are adopting the city manager plan now are doing so in connection with the commission feature, which of course retains its superiority over the old form of organization, whether the city manager is provided for or not. In speaking of the city manager plan hereafter therefore we shall have in mind the combination of the commission government and general manager ideas.

A more important question than that of classifying the city manager plan with reference to commission government is the consideration of its merits and defects as compared with that

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form and the likelihood of its ultimately supplanting the present commission form entirely.

So much has been written concerning the commission form and its advantages over the old mayor and council form that it will not be necessary to dwell at length on those points. Many of the claims put forward by the advocates of commission government have shown themselves to be well founded. Many others have proven to be vain hopes. But the ever increasing number of cities that are turning to this expedient for relief from unbearable municipal conditions and the apparently entire lack of inclination on the part of cities that have made the change to return to the old form are evidence enough that something worth while has been accomplished.

The substitution of one responsible body for two or more has undoubtedly increased both popular interest and popular control in the commission governed cities. The abolition of wards has helped to eliminate ward politics. The reduction in the number of elective offices has simplified the task of the voter and enabled him to exercise better judgment in the choice of representatives. The emphasis placed upon the importance of applying business principles to city government and the selection in many cases of competent men to places on the commission with a view to profiting by their business experience has in many instances resulted in a decided improvement in the business aspects of the city's government. These are all results to be thankful for and justify the conclusion that commission government has had some very definite beneficial effects on the quality of the government in many cities of this country. Nothing could be gained by a return to the old form at any rate.

But perfection is not to be found in commission government any more than in any other human institution. There were of course prophets of disaster when commission government was first established who predicted a destruction of popular government under so concentrated a form of city administration. Lack of responsiveness to popular opinion, greater ease of domination by the city boss, these and other calamities were foresaid for the new city government. In general, however, we may say

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that these were false prophets. It would be hard to find a single city which having changed from the mayor and council form to the commission government form finds its government less reponsive or more corrupt than before.

There is, however, evidence of dissatisfaction with the government in certain of the commission governed cities. This it seems may be attributed to two distinct causes. One is a diminution of the popular interest aroused in the affairs of the city by the original campaign for a change of government. The other is the inherent defect from an administrative point of view in the ordinary commission form of government. For the first of these causes there is no remedy except unremitting efforts on the part of the best element in the community to stimulate and keep alive civic interest. Americans are proverbially indifferent to questions of civic importance and act as though a city government should run itself. It was this chronic attitude that was in large measure responsible for the rottenness of city government in this country in former times, and undoubtedly a good part of the success attained by commission government must be attributed to the unusual public interest aroused by the campaign for a change in government. With a definite and more or less permanent end to be attained it was possible to arouse enthusiasm among voters whose civic patriotism was not equal to the routine task of registering an intelligent vote at the perennial elections. This enthusiasm once so aroused had a certain impetus which carried the voters' interest in civic affairs during the years immediately following the change of government. The energy has spent itself somewhat already in a number of the cities and the declining interest of the citizens is being reflected in the declining calibre of the commissioners elected. This result can clearly not be laid at the door of commission government, however, for whatever interest there is can still express itself more effectively through the medium of commission government than through the old mayor and council form.

But the other cause for dissatisfaction with the commission form is more easily removed and has a direct bearing on the question of the value of the city manager plan. As was stated

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above one of the distinguishing features of commission government is the partitioning out of the various departments among the commissioners and the charging of each one with the responsibility for the proper administration of his department. The commissioners are, it is true, collectively responsible as a commission, at least in theory, for the entire administration of the city. But in point of fact, both in the minds of the commissioners and in the opinion of the public this collective responsibility is a very secondary matter. The real responsibility is an individual one attaching with regard to each department to the commissioner in charge of that department.

Now this feature of commission government is open to some very serious objections. In the first place the work of looking after the administration of a city department is such that it requires considerable time and attention. This means that commissioners cannot be expected to give their services free. They must be paid a salary therefore as though they were experts in their line. But of course real experts cannot be procured for the salaries offered to commissioners, and if obtainable would not be gotten by means of popular election. The result is that the services of really competent men cannot be procured as heads of the administrative departments and the best that can be hoped for is to secure fairly representative men without special training of any kind for their work. As though to make sure that no specially qualified man from an administrative point of view be chosen to the commission, most commission cities provide that commissioners be elected merely to the commission and then distribute the departments among themselves after election. In this manner five lawyers or bankers or business men might be chosen, instead of having men elected to particular posts with some regard to the diversity of needs to be met. In recent times the tendency seems to be somewhat in the direction of having commissioners run for particular posts, but of course that still leaves us with the difficulties of popular choice of professional administrators. The results of this system are of course the same in commission government as they would be in a railroad corporation which chose a board of directors consisting of corner

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grocerymen and then entrust the passenger department to one, the freight department to another and so on.

This brings us to the second fundamental defect of commission government. Even if our municipal electorate were able and willing to be guided in its choice of commissioners solely by considerations of fitness for particular administrative posts, and even if they were willing to provide salaries large enough and terms of office long enough to procure the services of administrative experts, the system would still be open to very grave objections. Administration is that function of government which demands for its proper exercise centralization of power and responsibility. The proposal in the national constitutional convention of 1787 to provide a plural executive was wisely rejected in favor of the single executive plan. The result has been the centralization of the administration of the United States in the hands of the President. Private business everywhere applies the principle and it is a curious fact that advocates of commission government while stressing in their arguments for the new form of government the analogy between the city commission and the board of directors of a corporation fail to take the further step and provide a counterpart for the manager of the corporation. From the administrative point of view an expert manager is much more important for a corporation than an expert board of directors. A railroad corporation might conceivably thrive under a board of corner grocerymen if only it had the proper kind of a manager.

A manager for a city then would not only present the possibility of expert administration, which commission government practically excludes, but it would provide a unification and centralization of the administration which is now wholly lacking. It is true that the work of municipal administration can be roughly classified under five or six different heads more or less clearly defined, but of course these departments cannot work quite independently of each other since their spheres of operation inevitably intersect. The health department must coöperate on the one hand with the education department in the matter of school hygiene. It must work hand in hand with the police department in the matter of executing its administrative orders.

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It must consult with the department of public welfare in the matter of housing legislation, public baths, etc. The department of public works must in the same way be guided by considerations of public health, safety and convenience in the provision of water and sewerage facilities, in the construction and maintenance of streets and in the location of public buildings. All of the departments must be in close touch with the city attorney's office if they are not to be involved in legal and constitutional difficulties. Finally the department of finance must have a certain jurisdiction in all the other departments if accuracy and completeness of accounts are to be insured. The instances in which no one city department can properly act alone in matters apparently falling under its jurisdiction could be multiplied without number. In fact the difficulty would consist rather in discovering instances in which any city department could effectively act with entire disregard of all the other departments. Then finally there must be some central authority to act in matters of appointment, discipline and removal of subordinate officials so that the service may be standardized and organized on a proper basis.

Commission government, it is true, might in a measure remedy the evils of administration by amateurs through the appointment of expert officials directly subordinated to the heads of departments, somewhat as the permanent under-secretaries in England provide the necessary administrative experience for the non-professional department heads. But even if that were done there would still be lacking the necessary centralization to insure harmonious coöperation.

That the evils resulting from this lack of administrative centralization are not purely theoretical is evidenced by the complaints voiced by persons actively engaged in the administration of cities as commissioners. The log-rolling tactics, working at cross purposes, duplication of work, gaps in the distribution of functions are features of commission government that are actually encountered and against which those most directly concerned have raised a voice in protest. It is interesting to note that the Houston, Texas has realized the disadvantages from an admin-

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istrative point of view of five coördinate department heads and has given to the mayor a degree of authority which is quite unusual in commission governed cities. Indeed it is hard to see how the mayor could be given any more power without practically destroying the very foundation on which commission government rests and returning to the mayor and council form with the single change of a reduction in the size of the council. So-called mayors in other commission cities have felt the very real need of greater administrative concentration.

There must then, it is clear, be a change from the principle of administrative coördination and decentralization now applied in commission cities to a policy of centralization. This is exactly wherein the city manager plan is an improvment over the commission form in the very point in which the latter was weakest, namely, on the administrative side. A general manager chosen by and responsible to the commission would do for municipal administration what the general manager does for business administration. The analogy is close and the soundness of the principle admits of no doubt.

When it comes to applying the doctrines laid down above the matter immediately shows some complications. In private business where the directors of a corporation are directly concerned in a financial way in the success of their corporation the incentive for appointing the best manager available and keeping him as long as possible are evident. There is no need of elaborate safe-guards against improper appointments or removals either with reference to the manager himself or to the inferior officers appointed by him. He knows that he will have to provide an efficient machinery or lose his place. In the case of the city however the situation is different. The only dividends that a city declares are satisfactory municipal conditions and the possibilities of financial gain lie all in the direction of misuse of power. One of the most corrupting influences in our politics has been the abuse of the power of official patronage. An authority in matters of municipal government has pointed out what a glorious opportunity the city manager plan would afford for the city boss. If he can control the election of the commissioners,

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and have himself or a tool of his selected as manager the very advantages of the city manager form become opportunities for an absolute and strictly legal control.

Administrative efficiency demands the greatest possible freedom in the manager's power of appointment, discipline, and removal. Public protection against corrupt politicians demands a limitation of those powers. Between these two opposing principles the proper path is not easy to find. It is clear, however, that until we have progressed much farther than we are at present in the development of a sound public opinion with regard to public offices some sort of civil service merit rules must be applied especially to city manager cities, in order to guard against the danger of machine control.

While the danger of abuse of the administrative power of appointment and removal for party or selfish purposes constitutes perhaps the most serious danger of the city manager plan, it is not the one which will be so viewed by the general public. That word of universal taboo in this country, that anathema of the political demagogue, "undemocratic," has already pointed its reactionary and destructive finger at the new development. It is claimed that it is "undemocratic" to lodge all administrative power in the hands of a single individual even though he be appointed and removed by the elected representatives of the people and though his administrative powers be circumscribed by civil service merit regulations. It takes but little thought to show that a city manager thus at the mercy of the commission will have to make good with the electorate through energy and efficiency coupled with the necessary amount of tact if he is long to retain his position. He is, it is true, once removed from the improper political pressure brought to bear by a discontented minority whose personal interests are interfered with by an impartial and vigorous enforcement of the law. But who will say that the barrier thus set up against illegitimate influence is not a salutary one, or, that the evident will of the law abiding decent element in the community cannot make itself effectively felt against the retention of a manifestly undesirable city manager. Democracy need fear no setback through the intro-

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duction of this new form of administration; and efficiency, so long absent from the councils of democracy; can come into her own at last.

Finally, the question has been raised whether or not the city manager plan, even if adapted to cities of medium size, could be made to work well in our largest cities of a million inhabitants and over. So far as some of the commission features are concerned there would seem to be some real need of modification. So for instance it is a fair question whether a commission of five, the usual number of representatives in commission cities, would be satisfactory for these larger cities. The principle of efficient administration is well served by a small governing body whether the city be large or small. At the same time it is well to remember that city government, though much more largely business than is state or national government, is not without its important legislative problems in matters of municipal policy. For these matters it is desirable to have an adequate representative body and no doubt the commission might well be doubled or trebled over its normal size for the largest cities.

Closely connected with the matter of the size of the commission in our largest cities is the question of general ticket or district election. The practice of election on general ticket presents increasing difficulties the larger the area of election, since the labor and expense of conducting a campaign are greatly augmented. But aside from that, it seems unquestionable that some of our largest cities are made up of several geographic divisions which really have rather distinct needs and whose interests would perhaps better be conserved by a representative body in which these geographical divisions as such have representation.

These questions, however, as was stated above, are not connected with the general manager features of city government. There is no reason why the efficiency of management should be destroyed by departing from the principle of a single administrative head in cities. This principle is fundamental whatever the size of the city, indeed it may be said to increase in importance with the size and consequent complexity of the administrative service. There may be a need of an assistant city manager or

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even of more than one, as in the largest German cities there are three burgomasters, but a single manager must still remain the head of the service.

Predictions are of course dangerous and it would be folly to attempt a prophecy as to the spread of the city manager plan in this country. But if we may conclude from the rapidity of the spread of commission government that the American municipal electorate has at last awakened to a realization of the importance of improving the machinery of city government, it seems safe to conclude that the superiority of the city manager plan over the ordinary commission government will not be any slower to receive recognition than were the merits of commission government over the old mayor and council form.

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LEGISLATIVE NOTES AND REVIEWS[1]

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Special Municipal Corporations. During the past few years there has been a significant increase in the number and diversity of municipal corporations, and the creation and development of interesting political units seems to be only in its infancy. A municipal corporation is a public corporation, created by competent governmental authority, for political or economic purposes, and possessing subordinate and local powers of legislation. The three distinguishing characteristics of a municipal corporation are a contiguous, fairly compact and accurately defined territory, a separate corps of administrative officers, and adequate power to carry an enterprise to completion and to collect taxes to provide the necessary revenue. The most obvious examples are counties, townships, cities, towns, villages and school districts. The inadequacy of these arbitrary political subdivisions to effectually discharge the obligations imposed by an increasingly complex community life, has led to the creation of special municipal corporations of greater flexibility and with more homogeneous interests.

The constitutionality of the laws creating such additional administrative areas has been attacked. In 1911, the state of Washington provided for the establishment of a port district at Seattle and the development of harbor improvements and terminal facilities. This law was upheld in Paine v. Port of Seattle, et al., 126, p. 628, on the theory that the legislature may constitutionally create other municipal corporations than cities, towns, counties and school districts. To guard against any adverse contingency, Texas will submit a constitutional amendment to the people on July 19 of the present year which is de-

[1] The aim of this Department of the REVIEW will hereafter be to furnish notes of legislation of special significance to political scientists, and annual reviews of legislation of a distinctively political science character. Such subjects as constitutional amendments, nomination and election of public officers, legislative processes including direct legislation, executive and administrative changes, judicial reform, and the relation of state to local government and to the federal government, will be emphasized.

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signed to authorize the creation of improvement districts of unlimited sub-divisions of the state for the improvement of water courses, the prevention of overflow, the improvement of navigation and the construction and maintenance of irrigation works, roads and agricultural warehouses.[1]

Drainage and Reclamation. Among the most familiar examples of municipal corporations are drainage, levee, reclamation and irrigation districts, unlimited as to extent, and created to redeem arid and swamp lands and incidentally to supply water power. The territory embraced in these districts is accurately defined, a board of administrative officers is provided, and the district is enabled to raise funds for the promotion of its enterprise and to enact ordinances to safe-guard its property from malicious injury. During 1913, Florida, Idaho, Kentucky, Maryland, Missouri, Nevada and Utah passed general laws authorizing the organization of drainage districts anywhere in the state.[2]

Tennessee authorized the incorporation of a special levee and drainage district;[3] California created two special drainage and five special reclamation districts.[4] Arkansas created four special levee districts;[5] Illinois provided for the incorporation of the Kaskaskia Island sanitary, levee, drainage and reclamation district;[6] Florida, for the reclamation of the Everglades;[7] and Texas passed a comprehensive irrigation law authorizing the formation of irrigation districts anywhere in the state.[8] One of the best known pieces of legislation of this kind is the Ohio flood protection act which provides for the establishment of conservancy districts to prevent floods, regulate streams, reclaim lands and provide irrigation. Such districts may be created on petition of a majority of the freeholders affected, and are in charge of a board of three directors appointed by the common pleas court for terms of five years.[9]

Water Districts. Water districts, created for the purpose of supplying the inhabitants thereof with water for domestic, sanitary, manufacturing and municipal purposes from a common course of supply, are

[1] Laws 1913, p. 462.

[2] Laws 1913, Florida, p. 184; Idaho, p. 58; Kentucky, p. 483; Maryland, p. 980; Missouri, p. 232; Nevada, p. 461; Utah, p. 167.

[3] Laws 1913, p. 352.

[4] Laws 1913, p. 109, 130, 237, 242, 252, 338 and 811.

[5] Laws 1913, p. 4, 1267, 1308, and 1334.

[6] Laws 1913, p. 278.

[7] Laws 1913, p. 129.

[8] Laws 1913, p. 358.

[9] Laws 1914, (Special Session), p. 13.

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very common in New England and in some parts of the west where resort to irrigation is necessary. Seven states, including Colorado, Maine, Massachusetts, Nebraska, California, New York and Arkansas passed laws authorizing the creation of water districts. Metropolitan water districts may be formed in Nebraska consisting of the territory of any city of the metropolitan class and one or more adjacent municipalities or precincts, which can be served in whole or part by a common water works system. A board of directors, elected for terms of six years is charged with the construction and maintenance of water plants, the assessment of taxes and the determination of rates.[10] Districts very similar to these may be organized in Colorado outside of incorporated cities and towns.[11] Massachusetts created three such districts consisting of parts of the towns of Chelmsford, Lunenburg and Seekonk, respectively, and each administered by a board of three water commissioners, elected annually.[12] Maine created twenty districts in as many different parts of the state, each with its own water plant and administrative board.[13] In California water districts, partly for irrigation purposes, may be organized out of incorporated or unincorporated territory, and when formed they are in charge of the county board of supervisors or special officers elected for that purposes.[14] In New York, union water districts, comprising any number of municipalities or water districts within contiguous counties, may be formed to supply water to central distributing points. The trustees in charge consist of the chief executives of the constituent municipalities.[15] A water improvement district within the corporate limits of the town of Walnut Ridge was authorized by the general assembly of Arkansas.[16]

Fire Districts. Quite similar to the water districts are the fire districts, common in New England. Fire districts are created for the express purpose of providing equipment for the extinction of fires and to safeguard life and property from destruction. Occasionally such districts are authorized to exercise other ancillary functions, such as lighting streets, constructing and maintaining sidewalks, and employing a

[10] Laws 1913, p. 349.
[11] Laws 1913, p. 618.
[12] Laws 1913, p. 108, 225 and 437.
[13] Laws 1913, p. 350, 357, 365, 374, 386, 389, 409, 421, 448, 467, 470, 499, 524, 539, 544, 574, 599, 632, 680, and 688.
[14] Laws 1913, p. 785, 815 and 1049.
[15] Laws 1913, p. 406.
[16] Laws 1913, p. 1476.

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patrol. A separate administrative board is provided with power to levy special taxes and adopt regulations and ordinances. Such districts were created in parts of the towns of Barnstable and Seekonk, Massachusetts, whose affairs are administered by a prudential committee,[17] and in ward one of the town of Cranston, Rhode Island, with a moderator, clerk, treasurer, three assessors and three additional members, who, with the treasurer and first assessor, constitute an administrative board.[18]

Sewer Districts and Sewer Improvement and Treatment Works. Sewer districts are usually contiguous to and may constitute a part of cities and they are designed to provide a means for the sanitary and adequate disposition of the sewage of such cities. They are sometimes in charge of the county commissioners, sometimes of the municipal authorities and sometimes of both jointly. In Ohio joint sewer districts may be created comprising any municipal corporation and the rural lands contiguous thereto and not more than three miles beyond the corporate limits of such city, and whether located in one or more counties, or of such rural lands only. The cost is defrayed by the levy of a proportional tax.[19] Maryland authorized the creation of two such districts in Montgomery county on petition of one-half the tax payers affected.[20]

Sanitary Districts. Sanitary districts are created to improve the public health, to eradicate disease, to provide for drainage and to facilitate the disposition of sewage. North Carolina authorized the formation of special tax sanitary districts in any county of the state on petition of a majority of the persons benefited. The boundaries of the district may be progressively extended. A special tax may be levied if approved by a majority of the persons subject to its payment. The care of the health of the inhabitants of the district is intrusted to a board of three health committeemen, appointed biennially by the county board of health. A physician may be employed to discharge the same functions usually discharged by a county physician.[21] Indiana provided for the creation of a sanitary district in Lake county, including the cities of Gary and Hammond if demanded by a majority of the interested electors voting at a special election held for that purpose. Five trustees are elected quadrennially to administer the affairs of the district. Contiguous territory may be progressively annexed. The tax levy is limited to one-half of one per cent.[22]

[17] Laws 1913, p. 250 and 462.
[18] Laws 1913, p. 193.
[19] Laws 1913, p. 734 and 828.
[20] Laws 1913, p. 810 and 903.
[21] Laws 1913, p. 245.
[22] Laws 1913, p. 821.

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School Districts. The independent school district with a separate corps of administrative officers authorized to levy a special tax for the support of schools is one of the commonest forms of municipal corporations and the number is multiplying rapidly. Florida enacted a general law authorizing the creation of special tax school districts on demand of a majority of the patrons affected,[23] Georgia created two such districts, co-terminous with the corporate limits of the towns of Camilla and Davisboro;[24] West Virginia two;[25] Texas eight;[26] and Arkansas twenty-four, which are authorized to extend their boundaries, from time to time to include contiguous territory.[27]

Roads and Streets. The road district is another form of municipal corporation quite common in many of the states. Districts, similar in organization to drainage and levee districts, are created to construct and maintain roads and streets. These districts may be co-terminus with a township or any incorporated town or city, or they may consist of the whole or parts of several townships, or even counties. Following the drainage of her swamp lands Arkansas has been unusually active in the good roads movement and in the creation of special roads districts. Each such district has an elected overseer and is authorized to levy a special road tax. No fewer than eleven such districts were created in 1913.[28] The territorial area of several of these districts is extensive. One consists of 36 sections of land in 4 townships. By far the most important is the so-called Little Rock and Memphis Highway district. The termini of this proposed highway are Little Rock and Memphis, it crosses eight counties and is over 120 miles long. It is to be built of macadam or other durable material and includes the construction of all bridges and culverts. The district proper includes all territory within five miles of either side of the road. One-half of the cost is borne by the district itself and one-half by the counties through which it passes. The work is in charge of four commissioners named in the statute, and appointed thereafter by the governor. A general law was also passed authorizing the organization of road improvement districts. In Oregon the county court of any county having a population of 150,000

[23] Laws 1913, p. 489.
[24] Laws 1913, p. 635 and 783.
[25] Laws 1913, p. 239 and 255.
[26] Laws 1913 (Called Session), p. 201, 204, 217, 219, 223, 224, 231 and 250.
[27] Laws 1913, p. 95, 103, 104, 131, 160, 162, 178, 242, 561, 731, 795, 1010, 1020, 1026, 1049, 1097, 1121, 1123, 1130, 1138, 1146, 1171, 1236 and 1262.
[28] Laws 1913, p. 334, 411, 418, 587, 588, 697, 789, 797, 1126, and 1433.

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may create assessment road districts for the hard surfacing of established county roads. The districts are unlimited as to length and not to exceed two miles in width. The county may in its discretion pay not to exceed 60 per cent of the cost, the rest to be borne by the district.[29] Missouri empowers townships to incorporate as roads districts, on petition of a majority of the owners therein. The land is valued, and assessments are made as in ditch construction work. Three commissioners are elected to supervise the work.[30] Washington authorized the organization of local improvement districts for the purpose of defraying the cost of constructing arterial streets.[31]

Bridges. The organization of bridge districts was authorized in West Virginia to procure revenue to construct bridges across the Shenandoah river.[32] New Jersey authorizes three or more counties on the boundary of the state to form a district for the construction of bridges or tunnels over or under navigable streams.[33] Upper township of Sebastian county, Arkansas, was constituted a bridge district to construct a bridge across the Arkansas river. Seven landowners of the district and a commissioner named in the statute are to serve during the existence of the corporation.[34]

Fencing Districts. Arkansas authorizes the organization of fencing districts in the cattle country, providing for the enclosure of large areas of grazing land and prohibiting stock from running at large. The district, including the construction and maintenance of the fence, is in charge of a board of three commissioners, appointed by the county court.[35]

Illinois, Washington, New Jersey and a few other states have made some rather exceptional departures in the creation of municipal corporations.

Agricultural Development Districts. The state of Washington has provided for the organization of agricultural development districts to promote the improvement of agricultural lands, and encourage their most productive use. These districts may be co-terminous with the boundaries of a county, or they may consist of part of a county only. They are established if demanded by a majority of the resident qualified electors voting at an election held for that purpose. The affairs of the district are entrusted to an agricultural development commission of three resident freeholders

[29] Laws 1913, p. 146.
[30] Laws 1913, p. 751.
[31] Laws 1913, p. 142.
[32] Laws 1913, p. 207.
[33] Laws 1914, p. 501.
[34] Laws 1913, p. 380.
[35] Laws 1913, p. 186 and 1553.

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who serve without compensation for three years. The commissioners are authorized to purchase land and water for irrigating purposes, construct and improve public highways, purchase the material and equipment necessary to improve any undeveloped agricultural lands and to sell or lease such material or equipment at cost to any farmer in the district, to extend aid in the production and marketing of crops and to levy an annual tax of not to exceed two mills per year to defray any expenses incurred. They are also empowered to buy or lease undeveloped lands, to ascertain the quality of the soil, its proximity to railroads and public highways, the cost of clearing or irrigation and to let contracts for the development of such tracts and divide them into suitable parcels and resell them to colonists and settlers. They may likewise install the necessary irrigating plants and prescribe rates for the consumption of water. The districts are entitled to the advice of any experts in the employ of the state.[36]

Forest Preserve Districts. Forest preserved districts, consisting of any area of contiguous territory lying wholly within a county and containing one or more municipalities and one or more natural forests, may be organized in Illinois if a majority of the qualified voters of the district vote in favor at an election held to determine the question. The affairs of such districts are administered by a board of five commissioners, unless the district is co-terminous with a county or incorporated municipality, in which case the county or municipal authorities have charge. Some districts may create forest preserves and maintain them in their natural condition, acquire land, lay out drives, regulate traffic and pass ordinances, and levy a tax of not to exceed one mill on the dollar to defray any expenses incurred. The districts may be progressively enlarged.[37]

Inter-Municipal Parks. In New Jersey, two or more townships and boroughs or other municipalities lying within the boundaries of adjacent counties may maintain public parks and pleasure grounds and for that purpose may acquire land, lakes, ponds and rights of flowage, and erect and maintain dams to impound water. The affairs of the park district are administered by an inter-municipal park commission consisting of one member for each 1000 persons resident within the constituent municipalities, the members of which are appointed for five years by the several municipal governing bodies and serve without compensation. A maintenance tax is levied annually.[38]

[36] Laws 1913, p. 492.
[37] Laws 1913, p. 385.
[38] Laws 1913, p. 189.

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District Children's Home. In Ohio, the commissioners of two or more adjoining counties not exceeding four, may organize themselves into a joint board and form a district for the establishment and support of a children's home, which is governed by a board of five trustees appointed by the commissioners acting jointly.[39]

Union Town Farms. In Maine, two or more adjoining towns may unite to maintain a union town farm for the employment and support of paupers, the overseers of the poor of the uniting towns composing a joint administrative board.[40]

Public Utility Districts. In California, public utility districts may be organized consisting of incorporated or unincorporated territory in one or more counties of the state, if the ordinance providing for the creation of the district is approved by a majority of the resident electors. Such districts are designed to provide for the construction, ownership and operation of works to supply the inhabitants with light, water, power, heat, transportation, telephone service or other means of communication, or to provide for the disposition of garbage, sewage, storm water or refuse matter and for the organization and maintenance of public parks. The affairs of the district are in charge of three commissioners who may levy taxes, employ labor and have general charge of the public property so created.[41]

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Removal of Public Officers. A Ten-Year Review. The federal and state constitutions which have been adopted since the organization of our government have invariably provided for the removal of faithless public servants by a quasi-judicial process known as impeachment, for treason, bribery, negligence, incapacity and other high crimes and misdemeanors. Impeachment has proved to be a costly, dilatory and unsatisfactory process; comparatively few impeachment proceedings have ever been instituted; and in at least one state it has been definitely abandoned. In spite of a growing conviction that official delinquency was becoming more prevalent, and in spite, too, of the immunity afforded to unworthy public officers by an unresponsive and sluggish method of removal, no new or supplemental device was perfected until 1903 when a recall provision was incorporated in the Los Angeles charter. The

[39] Laws 1913, p. 894.
[40] Laws 1913, p. 48.
[41] Laws 1913, p. 450.

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wide-spread discussion of this well-known measure has quickened the public conscience and the legislatures which have met during the last ten years have been unusually enterprising and ingenious in devising and adopting new expedients for the discharge of dishonest and incompetent public officials, or in reviving methods which had temporarily fallen into abeyance and disuse. Moreover, the number of cases in which the machinery which has been provided may be invoked has been greatly increased, and acts of official delinquency and moral turpitude have been defined with greater particularity and precision.

A deliberate inspection of the legal literature covering the decade which has elapsed since the adoption of the celebrated recall provision of the Los Angeles charter discloses the significant fact that 33 states have either adopted new laws providing for the summary discharge of undutiful public officers, or have strengthened their old laws by the passage of vigorous amendments, or have somehow facilitated the power of removal. While the movement for an easy and expeditious removal of public officers has not been confined exclusively to the western states, it has, undoubtedly, achieved its greatest popularity in that section. This is evidenced by the fact that of the 33 states which have adopted such laws during the past ten years, 21 are western, 2 are southern and 10 are eastern. The number and variety of offenses for which a public officer may be removed have been greatly increased and differentiated and now include dishonesty, corruption, habitual drunkenness, gambling, delinquency, unprofessional or disorderly conduct, habitual and wilful neglect of duty, incompetence, disability, financial irregularity, gross partiality, oppression, extortion, maladministration, conscious obstruction to the due course of the administration of public affairs, malpractice, malfeasance, nonfeasance, misfeasance, conviction of a felony or misdemeanor or any other cause deemed sufficient.

Some half dozen effective but widely dissimilar methods have been devised for cashiering delinquent public officials, and the power of removal thereby conferred is vested in specially constituted impeachment tribunals, in the qualified electors themselves, in the governor of the commonwealth, in some designated court of competent jurisdiction, in an executive, administrative or legislative board or council, in the governor and state senate acting jointly, in the state legislature, in the executive head of a department and in the mayor of a city. Provision is also made for the mere ipso facto forfeiture of office. Judging from the comparative prevalence of these methods, we are justified in the conclusion that the most popular method of removal is the recall, the

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least popular, impeachment, while removal by the governor or the courts are both in high favor.

Removal by Impeachment. The operation of the process of removal by impeachment is well known. Aside from the celebrated Sulzer case in New York, the only recent impeachment proceeding of any consequence was that of the Insurance Commissioner of the state of Washington, a performance which cost the commonwealth upwards of $50,000.[1] In 1910, Oregon adopted a constitutional amendment prohibiting the impeachment of any public officer,[2] and only two States, Alabama and Nevada, have adopted any measures on the subject. In 1905, Alabama authorized the impeachment of solicitors and sheriffs who neglect to enforce the law providing for the detection and suppression of crime,[3] and in 1909 Nevada provided for the impeachment of any civil officer of the State by a two-thirds vote of the General Assembly.[4]

Removal by the Plebiscite. The process of removal which is most generally employed and which has attracted the widest attention is known as the recall, a purely political device designed to provide for the discharge of a public official in the same manner in which he is elected, by submitting the question to a vote of the proper constituency. Los Angeles adopted this method in 1903, and a similar provision has since been adopted by 17 other cities and counties in California. In addition, 20 States including Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey, North Dakota, Ohio, Oregon, Washington, Wisconsin, and Wyoming have passed laws providing for the recall, although this does not seem to be the only form of removal which may be exercised in these states.

Removal by the Governor. The power of removal which is exercised by the governor has two rather interesting and characteristic aspects: The first relates to the nature of the process by which an official is removed, and the second to the classification of the officials upon whom this power is designed to operate. One process of removal is predominantly an executive or administrative function by which an official is summarily ejected from office. The other process is more clearly judicial in its character, the governor sitting as a court, hearing testimony, sifting evidence and ultimately exercising his authority after the manner of a judge. The officers whom the governor is authorized to remove

[1] Laws, Extra Session of 1909, pp. 7 and 59.

[2] Laws, 1910, p. 8.

[3] Laws, 1905, p. 111.

[4] Laws, 1908–9, p. 293.

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clearly fall into two general classes: Those who have been elected by the people and those who have been appointed solely or concurrently by the governor. The former class have adhered most tenaciously to the vested interest theory of office. Moreover, these two aspects of the question appear in different combinations and will for convenience be so treated in this article.

1. Removal of Appointive Officers by Judicial Process. Removal of appointive officers by the governor, exercising his power by judicial process, affording a hearing to the accused, and providing for the accumulation and submission of pertinent testimony is in operation only in the State of Connecticut. The necessary investigations are instituted by the attorney-general who cites the accused before the governor and affords him the opportunity to show cause why he should not be removed.[5]

2. Removal of Appointive Officers by Executive Action. The power of the governor to remove public officers whom he has appointed is extensive and is authorized by 12 States, including Delaware, Iowa, Missouri, New Mexico, New York, Oregon, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming. In New York and Wyoming[6] the governor is authorized to remove any officer or commissioner appointed by him and investigations instituted to ascertain the character of official delinquency in the former state have been so extensive that approximately $30,000 has been appropriated since 1908 to defray the expense.[7] In the other 10 States the governor's power is not so extensive and the specific officers over whom he is authorized to exercise the power of removal are designated. The list includes special constables and delinquent tax agents;[8] inspectors of petroleum products and state fire marshals;[9] members of the board of managers of any eleemosynary institution;[10] state fair commissioners;[11] members of the state industrial accidents commission;[12] state commissioners of insurance;[13] state cattle commissioner; members of the board of examiners of embalmers, state factory inspectors, members of the state board

[5] Laws, 1907, p. 745.
[6] Laws, 1905, p. 101.
[7] Laws, 1903, p. 304; 1908, p. 1595; 1909, p. 1005; 1910, p. 1111 and 1913, p. 137.
[8] Laws of Delaware, 1905–6, pp. 106 and 108; 1906–7, p. 7.
[9] Laws of Iowa, 1904, p. 96 and 1911, p. 140.
[10] Laws of Missouri, 1909, p. 574.
[11] Laws of New Mexico, 1913, p. 53.
[12] Laws of Oregon, 1913, p. 189.
[13] Laws of Utah, 1909, p. 290.

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of veterinary registration and examination;[14] the state oil inspectors, state commissioners of horticulture and members of the public service commission;[15] members of the board of directors of the penitentiary and state highway inspectors;[16] free employment officers and members of the grain and warehouse commissions.[17] In New Mexico and West Virginia the governor is likewise given authority to remove members of the Louisiana Purchase and Jamestown Exposition commissions.[18] In Utah the governor is required to report all removals to the next legislature and during a recess of the legislature he may remove any officer appointed by him or by him with the consent of the senate.[19]

3. Removal of Elective Officers by Judicial Process. The governor is empowered to remove elective officers by quasi-judicial process in North Dakota, Ohio and Wyoming. In general, the officers comprised in this class include county officers, state's attorneys, public administrators, mayors, chiefs of police, deputy sheriffs and other police officers and custodians of public money. In North Dakota the state treasurer is specifically exempted and in Ohio state officers are included. On complaint by a certain number of qualified electors, an investigation is instituted by the state's attorney or the attorney-general and the results are presented to the governor. In North Dakota the governor appoints a special commission to accumulate and analyze the testimony.[20]

4. Removal of Elective Officers by Executive Action. In Louisiana, Minnesota, Montana, New Mexico, South Dakota, Wisconsin, and New York a considerable number of elective officers are subject to summary removal by the governor. In South Dakota the power extends to all elective state, county, township, municipal and precinct officers not liable to impeachment except members of the legislature.[21] In the other 6 States, collectors and custodians of public money are included as are also, in some cases, county officers, probate judges, municipal

[14] Laws of Vermont, 1908, p. 149; 1910, p. 229; 1912, p. 297; 1910, p. 220 and 1912, pp. 243 and 287.

[15] Laws of Washington, 1905, p. 315; 1909, p. 514 and 1911, p. 538.
Laws of West Virginia, 1913, p. 53.

[16] Laws of West Virginia, 1903, p. 142 and 1907, p. 250.

[17] Laws of Wisconsin, 1903, p. 707 and 1905, p. 37.

[18] Laws of New Mexico, 1903, p. 226 and Laws of West Virginia, 1907, p. 252.

[19] Laws of Utah, 1911, p. 64.

[20] Laws of North Dakota, 1913, p. 177. Laws of Wyoming, 1913, p. 63. Laws of Ohio, 1913, p. 851.

[21] Laws 1909, p. 181.

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judges, justices of the peace, members of the railroad commission, district attorneys and notaries public.[22]

Removal by Courts of Competent Jurisdiction. In 11 States including Connecticut, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, Oregon, Utah, Wyoming and Ohio an officer against whom charges are preferred for alleged delinquency is given a hearing before a court of competent jurisdiction and the judge or the jury determines whether the offense with which he is charged is sufficiently flagrant to justify his removal. An action may be instituted by a state's attorney, the attorney-general, the grand jury, the governor, or by private citizens. The Iowa, Kansas, Missouri, Nebraska, Nevada, Ohio, Oregon and Utah laws are substantially identical. Practically all state, district, county, township or city officers are subject to removal. In Missouri the question is submitted to a jury, in Iowa the case is tried without the intervention of a jury. Except in the case of state officers, appeals lie to the higher courts and take precedence over all other matters.[23] In Connecticut, town clerks, town treasurers, highway commissioners, justices of the peace and constables are subject to removal by the superior or the levy court.[24] In Montana, the state inspector of mines is subject to removal if charges are preferred against him by 50 or more legal residents and sustained by the district court.[25] Wyoming provides for the dismissal of county commissioners only.[26] The procedure in removing commissioners of cities of the third class in Kansas is unique. If any one of the three commissioners "so conduct himself in office as to knowingly obstruct the due course of the administration of the affairs of the city," the other two commissioners may notify him in writing, specifying his objectionable acts, all of which is entered on the journal. If the delinquent commissioner remain obdurate and recalcitrant, his colleagues may join in a complaint to the judge of the district court, who is required to cite the offender within 10 days and give him the opportunity of showing cause why he should not be removed from office.[27]

[22] Laws of Louisiana, 1912, p. 168; Minnesota, 1913, p. 670; Montana, 1907, p. 86; New Mexico, 1903, p. 31, 128, 162, 177, 221 and 232; South Dakota, 1909, p. 181; Wisconsin, 1905, p. 768 and New York, 1903, p. 304.

[23] Laws of Iowa, 1911, p. 43 and 1909, p. 72; Kansas, 1911, p. 412; Missouri, 1907, p. 367; Nebraska, 1907, p. 306; Nevada, 1908–9, p. 293; Oregon, Const. Amend. Laws, 1910, p. 8; Utah, 1907, p. 5; Ohio, 1913, p. 851.

[24] Laws, 1909, p. 1034; 1911, p. 1610 and 1913, p. 809.

[25] Laws, 1911, p. 266.

[26] Laws, 1913, p. 63.

[27] Laws, 1913, p. 211.

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Removals by the Governor and Senate or by the Legislature. In Iowa and Missouri certain officers may be removed by the governor and senate acting jointly or by the legislature acting alone. Any member of the state board of education of Iowa may be removed during a session of the General Assembly by the governor with the consent of a majority of the senate.[28] In Missouri any warehouse commissioner may be removed by the governor or by the legislature by a two-thirds vote of all members elected.[29] The bank commissioner may be suspended by the governor and removed if the governor succeeds in obtaining the consent of the Senate; in case of suspension, the governor reports his action to the Senate, and if they concur the commissioner is removed.[30]

Removals by Executive Boards, Councils and Supervisors. Iowa, Maryland, Michigan, and Nebraska authorize executive boards, city councils or county supervisors to exercise the power of removal in certain cases. In Iowa, the executive council[31] by a majority vote may remove members of the board of curators of the state historical society, the board of educational examiners, the director of the weather and crop service, the fish and game warden, members of the commission of pharmacy, members of the board of dental examiners, members of the board of parole, the dairy commissioner, the custodian of public buildings and property, the state veterinary surgeon, inspectors of petroleum products, members of the state board of medical examiners, inspectors of passenger boats, members of the board of optometry examiners, and members of the library commission.[32] The city register of Baltimore may be removed by a majority vote of all members of the second branch of the city council upon charges preferred by the mayor.[33] In Michigan the boards of county supervisors by a two-thirds vote may remove any county officer for failure or refusal to give bond,[34] and the township board of any township containing a primary school district may remove any district officer within their jurisdiction.[35] In Nebraska, any member of the fire or police department may be removed by the board of fire and police commissioners, under such conditions as they may prescribe,[36] and in all cities having a population of from 5000 to 25,000 the engineer, attorney, street commissioner, fire chief, city physician, water commissioner, and members of the board of public works

[28] Laws, 1909. p. 167.
[29] Laws, 1913, p. 111.
[30] Laws, 1913, p. 111.
[31] Governor, Secretary, Auditor, and Treasurer of State.
[32] Laws, 1909, p. 72.
[33] Laws, 1908, p. 591.
[34] Laws, 1905, p. 140.
[35] Laws, 1909, p. 53.
[36] Laws, 1907, p. 64 and 102.

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may be removed by a majority of the council with the approval of the mayor.[37] In Iowa all persons subject to the classified civil service in certain cities may be removed by the council.[38]

Removals by the Mayor of a City. A law will be submitted to the voters of Newton, Massachusetts, at the next general election providing that the mayor of the city may suspend any executive officer and report his action and the reasons therefor to the board of aldermen within 14 days. If the board does not reinstate such officer within 15 days, he is considered removed.[39]

Removal of Sheriffs in Cases of Lynching. The laws of Illinois, Indiana, and Ohio provide that if any person is taken from the custody of a sheriff and lynched, it shall be considered prima facie evidence that the sheriff has failed to do his duty and is cause for his removal.[40]

Miscellaneous Power of Removal. In Connecticut, any counter, booth-tender, box-tender, ballot clerk or checker may be removed during an election by the registrars of voters.[41] In 1908 Louisiana adopted a measure forbidding courts from granting writs of injunction maintaining persons in office who had been removed or restraining their successors from taking possession of the books and documents.[42] Officers in attendance on the superior court in any county of Massachusetts may be removed by the sheriff of the county for cause approved by a majority of the justices of the superior court.[43] In Missouri any member of the board of excise commissioners in cities of 300,000 or over may be removed by the mayor or the governor at pleasure, or by the council for cause or by the courts as provided by law.[44] In New Mexico any county superintendent may be suspended by the state superintendent and if circumstances demand, removed by the governor;[45] likewise any officer who appoints a deputy or assistant who has been convicted of a felonious offense is removed from office.[46] In New York any deputy state superintendent of highways may be removed by the superintendent;[47] the state fish and game commissioner of Vermont may remove any county fish and game warden;[48] and in West Virginia any prosecuting attorney may remove his deputy.[49]

[37] Laws, 1907, p. 107.
[38] Laws, 1907, p. 45.
[39] Laws, 1913, p. 100.
[40] Laws of Illinois, 1905, p. 191; Indiana, 1905, p. 686; Ohio, 1910, p. 109.
[41] Laws, 1909, p. 1201.
[42] Laws, 1908, p. 95.
[43] Laws, 1906, p. 127.
[44] Laws, 1913, p. 387.
[45] Laws, 1903, p. 232.
[46] Laws, 1912, p. 71.
[47] Laws, 1911, p. 1483.
[48] Laws, 1910, p. 201.
[49] Laws, 1909, p. 370.

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Removal of Militia Officers. In Arizona the governor may discharge any militia officer upon address of both houses of the legislature or on recommendation of the board of examination.[50] Any commissioned officer of the Missouri militia may be removed on recommendation of his immediate commanding officer, or of the inspector general, or any general officer or the governor, by a board of five commissioned officers, one of whom is a surgeon.[51] In Washington, staff officers may be removed by approval of the governor.[52]

Forfeiture of Office. In New Jersey and Oregon the commission of certain misdeeds automatically deprives an incumbent of his office. In New Jersey any elective or appointive officer of the state, county or city forfeits his office for any misdemeanor involving moral turpitude.[53] In Oregon any member of a state board or commission who without valid reason fails to attend two consecutive meetings forfeits his office.[54]

Removal of Attorneys. A cognate subject is the removal of attorneys. In Alabama, a prosecution for the removal or suspension of an attorney may be instituted by the state bar association or by the central council thereof.[55] In California an attorney or councillor may be removed or suspended by the supreme court or any department thereof, by any district court of appeals, or by any superior court.[56]

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Codification and Revision of Statutes. The condition of the statutes of most of our American States is a disgrace. More and more, statutes have come to regulate the affairs of man and yet little effort has been made to make it possible for man to know the laws which govern him. Statutes are piled on statutes without clear distinction between what is in force and what has been repealed, and so indefinite in form and wording as to make interpretation impossible.

"Ignorance of the law excuses no one" and yet in most States the citizen must depend in many important matters upon the guess of the compiler or annotator. In many States compilations are prepared by private parties and are sold at exorbitant rates.

Codification and revision are resorted to spasmodically by the States to clarify the law but scarcely are the laws revised or codified when

[50] Laws, 1912, Regular Session, p. 443.
[51] Laws, 1909, p. 682.
[52] Laws, 1905, p. 436.
[53] Laws, 1913, p. 116.
[54] Laws, 1909, p. 185.
[55] Laws, 1903, p. 346.
[56] Laws, 1911, p. 848.

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along comes a new session of the legislature and the revised codes are again thrown into confusion.

To keep the statute law revised after it has once been put into clear and systematic form is the problem and yet a review of the legislation indicates that this end has not been kept in view. Commissions on revision and codification are temporary and a permanent body is not provided to carry on their work by fitting new enactments to the code. In one State only has there been any legislation to overcome the defective methods. Wisconsin in 1911 created a revisor whose work is permanent. Between sessions the revisor revises parts of the law and prepares it for adoption. New laws at each subsequent session affecting any part revised are made to conform to the revision. Thus each part revised is kept consistent through each succeeding legislature. In New York the long labors of the board of statutory consolidation were safeguarded by submitting proposed laws to the board to make them conform. Out of this grew the system of bill drafting carried on in the New York legislature.

The legislation of 1913 shows considerable effort to correct the defects of the statute law but no constructive effort to prevent future defects. Numerous laws were enacted for the revision of part or all of the law in different states.

Connecticut provided for the codification of the school laws and employment of children by the state board of education and for a report to the general assembly in 1915 for adoption.

Georgia created a commission of seven to investigate and consider the subject of a general revision and alteration of the civil and criminal procedure.

Iowa created a joint committee of the two houses to have supervision of the compiling of the acts of the general assembly for the purpose of making a new supplement to the code of 1907. The work is done by an editor appointed by the committee.

Louisiana provided in 1912 for a commission of three lawyers and two business men to revise and prepare amendments to the corporation laws; and sets forth the ideal for the commission to be that "one uniform and harmonious law upon the whole subject may be enacted; it being the true intent and meaning of this act that said commission shall compile all the laws relating to corporations in one act, in concise, simple and lucid language so that persons of ordinary intelligence may know what the laws of the State relative to corporations comprise; and in order to secure such a result the said commission shall carefully expunge all

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obsolete and inoperative provisions, simplify the language of those which are retained, correct the incongruities, supply such new provisions as will add to the completion of the act and arrange the whole in a logical and natural order under proper headings, titles and sections."

Michigan created a commission to compile the laws "without alteration" with notes and references and an index together with a complete digest of the decisions of the supreme court relative to the general laws.

Maine appointed a commissioner by name to revise, collate, arrange and consolidate all the general and public laws in force "preserving unchanged the order and arrangement of the present revised code and retaining the phraseology thereof." All superseded matter is to be dropped, and the compiler is to suggest "such contradictions, omissions, repetitions and imperfections as appear in the present revised statutes and the mode in which the same may be best reconciled, supplied, amended and corrected. References to the decisions of the Maine supreme court and the Supreme Court of the United States are to be added. The law does not require the revision to be submitted for adoption by the legislature.

In line with this license to an individual to practically interpret the law of the State to its citizens are the enactment in Maryland of a law legalizing the *Annotated Code of Public Civil Laws of Maryland*, edited by George P. Bagby, and a similar approval of a private compilation in Washington.

Massachusetts in 1913 required the State Board of Health to codify the health laws and report the codification to the legislature. In 1914 Massachusetts directed the secretary of the commonwealth to compile the laws relating to towns; the bureau of labor statistics to compile the laws relating to labor; and the state board of education to compile the laws relating to education.

Nebraska continued in 1913 the revision commission appointed in 1911, for eight months to finish and publish the Revised Statutes of Nebraska. Submission to the legislature is not required hence this is merely a compilation.

New York provided in 1912 and 1913 for consolidation, codification and revision of the laws relating to estates of deceased persons and practice in surrogate courts. That State in 1913 also authorized the commissioner of banks to appoint a commission of five to codify the banking laws and submit a complete revision "adopted to present banking conditions and based upon the experience of the banking department in the work of supervision and liquidation of failed institutions."

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North Dakota, by Act of 1913, entered into a contract with the Lawyers' Corporative Publishing Company for the compiling, codifying, annotating and indexing a compiled edition of the laws of North Dakota. The law specifies that on the fly leaf there shall be a notice that the laws are compiled by authority of the State of North Dakota. The secretary of state is authorized to pass upon the completion of the contract and purchase as many copies as may be necessary for the State.

Oklahoma approved in 1913 the codification and revision of the laws provided for in 1911.

Pennsylvania directed the Legislative Reference Bureau to prepare a revision and codification of the laws of the State and present the same to the legislature for adoption.

Constitutional Convention Commission. The New York legislature in 1914 passed an act providing for a commission to compile and furnish data for the delegates to the constitutional convention. The act was passed contingent upon the approval of the calling of a constitutional convention by the people. The question was decided affirmatively in April, 1914, and the new commission took effect the first of May.

The commission consists of the president of the senate, the speaker of the assembly and three citizens appointed by the governor. The commission serves without pay but is authorized to employ clerical, expert and other assistants. The law provides that the commission shall collect, compile and print information and data which it may deem useful to the delegates to the constitutional convention. The information and data in printed form are to be supplied to the delegates before the opening of the convention. The commission may also in its discretion provide for the circulation of such matter among other persons. The commission has an appropriation of $5,000 and is carrying on its work in coöperation with the Legislative Reference Department of the State Library.

Recall of Judicial Decisions. The first State to adopt the recall of judicial decisions as a part of its judicial practice is Colorado. The constitutional amendment providing for such recall was adopted at the November election in 1912 and went into force in January 1913. The provisions first prohibit all courts except the supreme court from passing upon the constitutionality of any law or city charter or amendment adopted by the people in a city, and then go on to say that any decision

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declaring or adjudicating that any law of the State or any city charter or amendment adopted by the people in a city is in violation of the constitution, shall be subject to approval or disapproval by the people of the State if a state law, or by the people of the city if it be a city charter or amendment.

Decisions on state laws and city charters under the terms of the act do not become binding for sixty days after they are filed in the office of the clerk of the supreme court, and if five per cent of the qualified electors request that such law be submitted to the people, the secretary of state must publish the text of the law and submit the same to the people at a general election if held within ninety days. The legislature may also provide for submitting such laws or charters at a special election. If a majority approve the act, it becomes binding as a law of the State regardless of the decision of the supreme court.

The same provisions respecting the submission of city charters to the people of the city is made. Such petition must be filed with the legislative body of the city which must then publish the text and submit the act to the people at a special election, unless a regular election is to be held within sixty days. The constitution specifically sets forth the method of securing the petition, by providing that petitions may be circulated in sections and that persons securing signers of any part of the petition shall make oath as to its genuineness. Provision is made for protest and hearing against the genuineness of signatures or the legality of other acts and the sufficiency of the petition. When any petition contains a form of submission containing a reasonably fair description of the act or charter to be referred, no petition filed subsequently thereto shall be permitted to use any form of submission that is so similar to the one previously filed as to tend to confuse the voter.

Special Courts. There has been a marked tendency during the past few years to create courts for special classes of people or to accomplish some particular end in facilitating practice. Many of these new courts have arisen owing to the great volume of business which has been thrown upon the courts especially in urban communities. This has given rise to the specialized court and in a few cases to the specialized judge. Thus, we have probate courts, criminal courts, domestic relations courts, etc. One of the most wide-spread forms of special court is the juvenile court which now exists in a large majority of the States and cities of the country, either in the form of a special court or a special sitting of a regular court for the disposition of cases involving children.

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Juvenile Courts. During the past two years some legislation of importance has been enacted relating to the juvenile courts. These enactments take the form of the more exact definition of the jurisdiction of the courts and a broadening of the conditions of which they take cognizance. Thus, the State of Washington at the session of 1913 enacted a new juvenile court law which aims to make it a greater power for social good by broadening the classes which come within the scope of the law and by setting forth more clearly its provisions. California also enacted a new juvenile court law which likewise extends the court as a social welfare organ of government.

The most important and interesting of the juvenile court legislation of the year is found in Utah where special juvenile courts were created in each judicial district of the State. The advanced feature of this law is the creation of a juvenile court commission which consists of the governor, attorney-general and state superintendent of public instruction. This commission has general control and supervision over juvenile courts and probation officers. A secretary of the commission is provided and all expenses of the commission and of the courts are paid out of the general funds of the State. In brief space the law sets forth the scope usually given to juvenile courts as follows: "The court shall have jurisdiction in all cases relating to the custody, detention, guardianship of the person, probation, neglect, dependency, delinquency, examination, trial and care of children who are under eighteen years of age and also have jurisdiction over adult persons for all misdemeanors committed by them relating to the custody, detention, guardianship, probation, neglect, dependency, delinquency and care of children who are under eighteen years of age."

The juvenile court commission is empowered to appoint one or more judges in each district and may remove any judge at its discretion. The commission shall also fix the salary of the judges. Likewise, the commission appoints the chief probation officer and as many assistants as may be necessary who serve during the pleasure of the commission. In the exercise of its supervision the juvenile court commission may assign judges and fix places for holding court. Undoubtedly this law comes nearly to the ideal of the specialized court set forth by the committee of the National Economic League in their "Efficiency in the Administration of Justice."

Municipal Courts. A second kind of specialized court is found in numerous acts creating municipal courts for the larger urban centers. The old police court before which all kinds of cases were brought is

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gradually giving place to the specialized court, consisting of a number of judges and presided over by a chief justice who assigns judges to their work, distributes cases and otherwise expedites the processes of justice.

The State of Ohio which had created a municipal court for the city of Cleveland in 1911, followed it up in 1913 by creating special municipal courts in Cincinnati, Columbus, Dayton, Hamilton and Youngstown. In Cincinnati the number of judges is fixed at five, in Columbus four Dayton three, Youngstown two and Hamilton one. These courts have both original and appellate jurisdiction and follow the lines of the previously created municipal court in other cities.

Pennsylvania created a special court for the county of Philadelphia consisting of a president judge and one associate judge for each 200,000 population or fraction thereof in excess of 100,000. The president judge directs and oversees the business of the court and assigns the judges the duties to be performed by them. All judges of the court meet at least once a month for the purpose of consulting for the promotion of the speedy administration of the business of the court. The president judge appoints one member of the court to hold a juvenile court and also appoints the chief probation officers and assistants. The court has both criminal and civil jurisdiction and has exclusive jurisdiction in certain cases. In all cases, under the new legislation, the judges of the municipal courts are elected by the voters. The Ohio cities do not give their courts power to appoint probation officers and the clerk of the court is elected by the voters. The city of Columbus provides for the appointment by the municipal court of a public defender who holds office during the pleasure of the court. In Youngstown all the appointive officers of the municipal court except the clerk and bailiff are in the classified civil service.

New York revised its law relating to the establishment of a court of domestic relations and Michigan in 1913 created a court in each county of the state which has a population of 250,000 with jurisdiction over all cases relating to domestic relations.[1]

Small Debtors Court. Kansas provided for a small debtors' court in counties and cities where the board of county commissioners or the mayor or council or the city commission deem the same to be advisable. In case such a court is created, the board of commissioners appoints the judge if a county court or the mayor with the consent of the council or the commission appoints the judge if it be a city court. The law defines the qualifications of the judge as a "reputable resident citizen of approved

[1] Declared unconstitutional in Atty.-Gen. v. Lacy, 146 N. W. Rep. 871.

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integrity who is sympathetically inclined to consider the situation of the poor, friendless and misfortunate." The informality of the court is such that the judge may hold it in his own home or in his own office or place of business. The jurisdiction of the court is over small debts and accounts not exceeding twenty dollars. Before invoking the small debtors court, the plaintiff must show that his financial means are so limited that he cannot employ a lawyer and invoke the jurisdiction of any other court. The law requires the plaintiff to appear in person and if the judge believes the plaintiff has a cause of action, he must summon the defendant orally or by mail or telephone and "try the cause considerately and summarily and give judgment thereon." No costs shall be assessed to either party. Judgment of the court shall be conclusive for the plaintiff but the defendant may appeal to the district court. The judge of the court serves without pay and no attorney at law or any other person than the plaintiff and defendant shall concern himself or intermeddle with the litigation in the small debtors court. Witnesses are not summoned but the judge may informally consult witnesses or otherwise investigate the controversy.

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CURRENT MUNICIPAL AFFAIRS

ALICE M. HOLDEN

Secretary, Bureau for Research in Municipal Government at Harvard University

A state bureau of municipal information is proposed for New York by the state mayor's conference. The project will, it is hoped, not only supply information to cities with no delay, but also be successful in establishing uniform municipal ordinances and accounting systems, and health and city planning surveys. To this end a committee of the conference is visiting every city in the state, studying their different needs and problems and conferring with local officials as to ways in which the conference can aid them. The general aims of the new bureau will be to gather and distribute information and statistics concerning municipal problems and improvements, to keep all municipalities informed about bills introduced in the legislature and newly-enacted laws which concern them, to put municipal officials in touch with each other and with various innovations and improvements, and to distribute reports and other useful literature. It is estimated that the cost for each of the fifty-two cities in the state, per year for three years, would be only $160.

On November 12, 13, and 14, in Philadelphia, there will be a conference of American mayors to discuss public utility problems, with Prof. C. L. King, of the University of Pennsylvania, as acting-director. The meeting is held in response to an invitation sent out in early summer by Mayor Blankenburg of Philadelphia to the mayors of all the principal cities, and it is planned to organize the November convention into a permanent national bureau of utilities research. This bureau will serve as a clearing house of public-utilities' information on which any city in the United States may draw for material to be used in serving its interest against the corporations. This does not necessarily imply antagonism to the corporations, but merely that the public interests shall have in some degree the resources whereby they may be able to present to public service commissions as strong a case as is made out by the public service corporations from their combined strength and expert advice and assistance. To this end it is purposed to secure the

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cooperation of cities, large and small, in collecting data and furnishing information and arguments to be used in all contests, friendly or legal, which they may have with the corporations. The information which is necessary to present adequately the rights and interests of the people is much the same for each city, but it has hitherto been impracticable for any one city to obtain this because of the degree and extent of technical knowledge needed. Since there is a tacit association of public utility corporations for mutual benefit, it is felt there should be a similar alliance among the cities. The board of trustees appointed for the bureau consists of Louis D. Brandeis, Frederick A. Cleveland, Felix Frankfurter, Samuel S. Fels, Charles F. Jenkins, L. S. Rowe, Frederick W. Taylor, and Charles R. Van Hise.

A concerted fight will be made to fix the rates and service for public utilities on the actual cost of providing such service, and this will be aimed particularly at those monopolies which charge exorbitant rates. An example of the abuses which the bureau will try to remedy is based on the claim of the mayor of Syracuse that, although the electric power furnished to Syracuse is secured from Niagara Falls at a cost of less than one-half cent per kilowatt hour, consumers are charged eight cents per kilowatt hour for the power.

Evidence is not hard to find in proof of the fact that the cause of public health is receiving its fair attention in all parts of the country. The health authorities in Augusta, Ga., are trying to stamp out death from malaria by waging war against the mosquito and the fly. A more wide-spread attempt yet, at better conditions, is that being made in many of the cities affected by bubonic plague. These comprise not only seaport cities like Galveston and New Orleans, where the malady has become very grave, but river cities such as Springfield, Ill., Charleston, W. Va., and all the cities on the Ohio River. A state-wide campaign for the destruction of rats is being planned for the latter, and no efforts are being spared by the health commissioner in Galveston to wipe out the plague in that city. In the West, the mosquitoes which infest the Hetch-Hetchy Valley are to be exterminated in large measure by the improvements in connection with San Francisco's water supply.

Special attention has been paid in New York City, by its department of health, to the reduction of infant mortality, with the result that, last year, only 102 infants out of every 1000 died in the first year of life as compared with 162 in 1904. This represents an approximate saving of 8000 infants during the year. Still further efforts are being made

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towards this goal by the committee appointed by Mayor Mitchel representing various infant-welfare activities. A million leaflets printed in three languages have been distributed through the schools and by the agents of two life insurance companies. By means of moving picture theaters, cards in store windows, bill posting and the newspapers, the widest notice was given of "baby week," held during the summer, and while the week was in progress the importance of the movement was made known in sermons, lectures and more newspaper notices.

A bulletin of the United States Public Health Service, issued during the summer, gives Boston the place of honor so far as lowest fatality from "notifiable" diseases is concerned. These figures relate to the cities having a population of 500,000 and over, and are for such diseases as diphtheria, measles, meningitis, scarlet fever, tuberculosis, typhoid fever and smallpox. The rate of deaths in Boston, per 100 people, from all save smallpox is lower than that in any of the other cities; there being practically no cases of smallpox in Boston. The highest rate for measles and meningitis is found in New York, for tuberculosis and diphtheria in Philadelphia, and for scarlet and typhoid fevers in Cleveland. This, of course, does not imply the greatest number of cases, as, for instance, the number of tubercular cases reported in New York City was 22,671, of which only 44.25 per cent proved fatal, while in Philadelphia, 50.46 per cent of the 4,783 cases resulted in death.

In a paper read at the London Summer School of Town Planning in August, Mr. John Nolen of Cambridge, Mass., stated what, in his opinion, constituted the principal contributions which the United States has made to the progress of the general city planning movement. These are: the parks or park systems, such as those of Boston and Kansas City; the playgrounds, as at Chicago, Rochester and Hartford; the development of street car transportation, making possible the separation of business and residential districts; metropolitan planning in certain fields, as illustrated by the work of the water, sewer and park commissions of the Boston neighborhoods; and lastly, the wide residential streets, with tree planting, and the relatively large residence lots with detached or semi-detached houses, which are common to most American cities.

The fifth annual report of the Port of London Authority and the annual report of the general traffic manager upon the Bristol Docks Estate, issued during the summer, go far to justify public control of shipping

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facilities in those cities. The port of London has been governed for the past five years by an elective body made up of three elements: representatives of the business interests immediately concerned in the efficiency of the port, representatives of the government, and of municipal bodies. In 1909, when it was partly under the old and partly under the new, present authority, the value of total imports and exports of the port of London was £322,614,363. For 1913 the amount corresponding was £411,792,149, and this with only a start made on its comprehensive scheme of construction, extension, etc., which is to involve ultimately an expenditure of £14,000,000. The improvements made during the past year include a large new channel, a new swing bridge, and various extensions of present docks. In the matter of administration the port authorities have instituted a good many reforms, such as the prevention of river pollution, a reorganization of the dock police, and a readjustment in relation to its employees.

In Bristol the docks form the largest purely municipal undertaking of its kind, being owned by the Bristol Corporation and managed by a committee of the city council. For the year ending April 30, 1910—the first complete year of the new dock facilities—the gross revenue was £267,082, while it had increased three years later to £388,984. During the same period the demand made upon the borough taxes diminished from £154,000 to £122,000. These figures represent an increase of 12.3 per cent in net revenue and a decrease of 5.7 per cent in aid from the city funds. The greatest growth is shown in the import of grain and seeds and in those commodities which demand cold storage facilities. At both the London and Bristol docks this latter sort of building is being extended.

A new accounting system for Springfield, Mass., has been completed by the Bureau of Municipal Research and will go into effect in all departments of the city as soon as it receives the approval of the State Bureau of Statistics. This is the liability accounting system and entails the unification of the books of every city department, thus relieving the auditor's office of much unnecessary work. The new system is the outcome of certain defects in the present scheme which appeared at the time of budget-making last year. Dr. F. A. Cleveland has directed the working-out of the proposed new method.

Although the visit of the Chicago municipal inspection committee to European cities was cut short by the war, a report has been made on

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the basis of the considerable amount of information which the committee was able to gather. A probable expenditure of $500,000,000 would be called for in the event of their suggested improvements being carried out. The committee urges, among other things, immediate means for city planning; the opening and widening of many streets; the forcing of many semi-public buildings (hotels, railway stations, etc.) to provide their own ground for vehicle stands; the construction of new subways, and these with more ventilation and less noise in operation, and complete public markets.

In keeping with his advocacy of the principle of coördination among municipal administrative activities, Mayor Mitchel of New York City has himself revised the budget for the twenty-nine departments under his supervision before submitting it to the board of estimate and apportionment—a most unusual act for a New York executive. The budget calls for an expenditure of $60,924,057.69 during 1915, and its largest single item is the $17,335,316.31 requested by the police department. This total is no increase over the aggregate cost of departments last year, although a year's growth in population, in added social reforms and duties, and in burdens imposed by the legislature, might well make a heavier demand on the taxpayers. The establishment of a central agency for the purchase of supplies costing from 14 to 15 millions of dollars annually has been urged by the mayor as one of the greatest aids towards coördination, but this step has been refused by the legislature. This also has been the fate of the mayor's suggestion for the organization of a division of administration in his office, which should attend to the many details and the working-out of better methods for caring for the general business of the city—a task not belonging to any single department but one which must be looked after in an efficient administration.

The national housing conference was held on October 21, 22, and 23 at Minneapolis. The subjects discussed included housing and the police power, land subdivision and its effect upon housing, causes of bad housing, effects of bad housing, taxation and housing, the place of housing work in a health department, and the alley problem. The publication of the *Proceedings of the Third National Housing Conference* (held in Cincinnati, December, 1913) has been completed. The volume contains papers on "Garden Cities," "Coöperative Housing," "How to Get Cheap Houses," "The Problem of the Old House," "Restricted

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Residence and Business Districts in German Cities," "Housing of Workers at Industrial Plants," "Transit and Housing," and "Public Health Administration and Housing." The volume may be obtained from the association, price $2.

Two charter amendments were voted upon in Cleveland at the August primary. One, initiated by the Socialist party, would have repealed the non-partisan, preferential ballot; the other, initiated by the city council and passed over the veto of the acting mayor, abrogated that provision of the new charter which applied the merit system to unskilled labor. The first mentioned amendment was defeated and the second one carried. These amendments were submitted without any general public demand for them. To their submission on the day set for a partisan primary, there was strong objection.

On August 4, at a special election held in Toledo, a majority vote was cast in favor of the purchase of the street railway, electric lighting and gas systems in the city. This step, however, does not bring municipal operation of public utilities very near a fact in Toledo for the accepted measure not only failed to provide the actual millions of dollars needed for the purchase, but also it indicated no means for obtaining the money. Nor have any terms of price been reached between the city and the Toledo Railways and Light Company regarding the transfer of its properties. Once these have been agreed upon, another election, this time requiring a two-thirds vote in favor, will be necessary to authorize a bond issue. The vote on August 4 was small—only about 20,000 ballots being cast out of a normal vote of 37,000—and the majority favoring the proposed ordinance was only 1,188. The municipal ownership league is the sponsor for the ordinance and in its petition the sum of $8,000,000 has been named as a limit of expenditure for purchasing the public utilities or for constructing new plants. It is part of the league's plan that the city shall refuse to renew for the company those rather important franchises which have already expired and thereby force the company to favorable terms. The company, on the other hand, has shown entire fairness in meeting the city's wishes and is willing to sell its properties to the city at a reasonable price, to be fixed by fair appraisal.

In July the Massachusetts legislature enacted a new fire hazard law for Boston and its metropolitan district (Chapter 795 of the Acts of

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1914), and the bill became effective on the first day of August. For three years the Boston Chamber of Commerce has been working to secure the passage of a measure of this sort, but apparently a concrete example such as the disaster of the Salem fire was needed to give weight to its argument. The aim of the bill is not to regulate the construction of buildings, but to check carelessness and supervise the occupancy and maintenance of existing and future structures. Briefly, it should accomplish the following results: the centralization of authority over fire matters in the hands of a fire prevention commissioner; the installation of sprinklers in mills, factories and other hazardous structures, and of dry pipe sprinkler systems in the basement of tenement and lodging houses; the prevention of dangerous accumulations of rubbish; the education of the community by emphasizing the fact that every fire is a small fire at the beginning, that any fire if allowed to spread is a menace, and that 90 per cent of all fires are preventable. In fact the publicity gained by the printing of full reports on every fire and of the rules to reduce fire hazard is counted on to be of the greatest value, as will also be the attention given to such smaller matters as the encouragement of fire drills, greater care in handling explosives and the like, prohibition of fires in the open, and, possibly, restriction of the use of the un-safety match. A proper enforcement of the new law is calculated to raise Boston from its position as the worst city in the world for fire hazard to one at least on a par with other American cities.

The municipal authorities in Birmingham, England, are hereafter to conduct the motor omnibus facilities for transportation within the city, having arranged for the purchase of the interests of the local companies at an expenditure of some £34,000. The private companies will continue the transportation of passengers between the city and points outside its boundaries, but all intermunicipal passengers will be carried by the municipal lines.

That a good many places are in dire need of short-ballot legislation is being brought out in connection with the fall elections. The voters in Los Angeles who go to the polls on November 3 will make their decisions on a ballot 26 by 39 inches in size. This ballot will contain not only a long list of state, county, and township officials, but 48 measures, each of which should receive the voter's serious consideration. Of these 48, 30 measures are constitutional amendments, eight of which were submitted by means of initiative petitions; four others are acts of the

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legislature submitted by referendum; one is a provision for a constitutional convention; six are bond propositions, two of which are initiative measures; five are general laws and two are amendments to the penal code, submitted through the initiative. To insure as careful and intelligent action on these different propositions as their large number and the haste and lack of information on the part of the general voter will make possible, the Municipal League of Los Angeles is making every effort, and a report with certain recommendations is being sent to its members. The state authorities have, of course, mailed to all voters a pamphlet containing the text of all measures.

In the same connection it might be mentioned that in New York City 35 officers are to be voted on in November by the electors in the borough of Manhattan, with only two or three less in the other boroughs in New York City.

Several cities have plans for installing a central heating station as a further branch of municipal operation. These cities range in size from Spokane, Wash., to Leominster, Mass., Jefferson, Wis., and Austin, Minn. The scheme is being tried in Newton, Mass. (with a population of 40,000), in Bloomington, Ind. (9,000), and in Sabetha, Kan. (1,800). The latter town has municipal steam-heat service, the central station being run in connection with the city lighting plant, and its operation is reported as being efficient and entirely satisfactory.

After the plan already successful in Newark, N. J., the city of Boston has opened at city hall a branch reference library for the use of business men. The library will be in charge of Dr. E. M. Hartwell, secretary of the statistics department. The branch library in Newark contains such works of reference as directories of all sorts, atlases, maps of cities, states, counties and post routes; periodicals dealing with business, municipal and local development, labor unions, etc.; and several thousand reference books and pamphlets. In addition there is a lending library of 10,000 volumes on the second floor of the branch library. Another service performed by the library is that of sending out to persons likely to be interested, notes clipped from the daily consular reports and pasted on cards—work which is done by assistants. All bills introduced in the state legislature are also kept on file. During the past year 42,000 men made use of the directories, maps, and reference books; of whom 4,500 had to have assistance in using the material. Over 3,000 telephone calls for aid were received, and this branch of service is

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one which is steadily increasing. The questions asked, both over the telephone and by personal and written inquiry, cover an interesting range of subjects and require a good deal of versatility on the part of attendants.

Statistics have lately been gathered for the city of Providence, R. I., in relation to the collection of ashes in leading cities of the country. It was found that in only six of these cities is the householder required to dispose of his own ashes and waste material—Worcester, New Haven, Kansas City, St. Paul, Denver, and Portland, Ore. In various other cities the service performed by the municipality is unsatisfactory because of the cans left along the sidewalks, and to meet this state of affairs different practices are in use. For instance, collections are made during the night in Milwaukee, New York City, and a few other places; in Syracuse there is an ordinance prohibiting householders or collectors from leaving empty cans on the sidewalks for more than an hour after their contents are removed; in Springfield, Mass., the city collectors go as far as to enter basements for cans and return them when emptied, and the same practice is observed in Montclair, N. J., on payment of a small additional fee by the owner of the cans. Figures were secured also concerning cubic yards collected per capita, cost per capita and per cubic yard, cubic yards collected per man employed, and population served per man employed. In the report made by Mr. C. D. Morse to the Providence authorities, he recommends night collection of waste for the city, estimating one collection weekly as sufficient.

The National Fire Protection Association, with headquarters in Boston, has published an ordinance which it recommends for adoption in small towns and villages. The ordinance provides for fire limits and for the construction and equipment of buildings, and is designed to counteract various dangers which are not at present sufficiently guarded against. The ordinance has been prepared with the advice of a good many building experts and special attention has been given to make it brief in text but broad in scope.

Statistics of expenditures for good roads show that in 1913 approximately $206,000,000 was spent in the United States as compared with $79,000,000 ten years ago. Towards this expenditure 81 per cent was furnished by counties, townships, and other local districts, the remainder being appropriated by the states. It should be added, however,

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that the latter appropriations are most necessary in that they usually form the foundation to be built upon by the larger local appropriations.

An interesting group of statistics drawn from the recent census report, Financial Statistics of Cities, is that relating to schools in 1912. The city of Newton, Mass., had the highest average school attendance, i.e., 21 per 100 inhabitants, the next in order being Newark, N. J., with 20.5; Chelsea, Mass., 18.9; Hartford, Conn., 17.9; Everett and Brockton, Mass., with 17.8 and 17.6, respectively. The lowest attendance was in Dubuque, Ia., where the average was only 7.4, while Charleston, S. C., had 8.3; Augusta, Ga., 7.8; Covington, Ky., 8.3; and Amsterdam, N. Y., 8.7. Of the larger cities, the numbers were Boston 14.5, Washington 14.1, New York 13.5, Los Angeles 12.9, Pittsburgh 11.6, Chicago 11.5, St. Louis 11.3, Philadelphia 10.7, New Orleans 10.4, Baltimore 10.3, Detroit 9.9, and San Francisco 9.3. The total number of school buildings reported was 7,308 for the 195 cities which are considered in the report. The average expense for schools per 100 inhabitants was $491—the highest average being paid in Pasadena, $899, and the lowest in Jacksonville, Fla., $169. The number of supervisors and teachers employed in 182 cities was 110,662. As for pensions and gratuities, 53 cities out of the 195 reported, provide for such, and 5 others have funds for that purpose. Of these 58 cities, 38 have permanent pension trust funds. In 1912, $1,702,811 was paid out in the 53 cities for pensions and gratuities.

A new venture in municipal activities is that of the city of Los Angeles in providing, for the boys and girls of the city, a camp in the San Bernardino mountains, forty miles from the city. A two-weeks' stay at the municipal camp may be had for $7.50 under the supervision of sanitary, medical, commissary, and playground experts. During the month of September adults were admitted to the camp. The city playground commission has entire charge of it.

Three temporary public markets have been opened in Bridgeport, Conn., as a try-out preliminary to the establishment of a large market-place in the center of the city. The markets are open daily, except Sunday, from six to one o'clock, and are used only by farmers, truck gardeners, poultry farmers, dairy farmers, and cattle raisers in the vicinity of Bridgeport to dispose of their produce. A license fee of five dollars is charged each by the city. All produce save fish may be sold at the markets.

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The City Club of Chicago will this year hold a competition in regard to plans for a neighborhood center, with the object of bringing before the public, in graphic form, the practical possibilities of enhancing neighborhood life in cities by better and more advantageously-grouped buildings and grounds for community activities. The drawings will form part of the exhibition and series of conferences on neighborhood centers, to be opened at the city club on February 9, 1915. Last year the competition was for the best plan for laying out a typical quarter-section of land in the outskirts of Chicago.

Under the auspices of the extension division of the State University of Iowa, Prof. R. B. Kittredge of the College of Engineering is making a thorough investigation of paving and electric lighting problems in Iowa cities. Data is being collected concerning the amount of brick and of concrete paving, the oiling of streets, residence lighting, electric light rates, street lighting, etc., and this will be available for general use, when complete, in the form of a bulletin published by the extension division.

The municipality of Haven, Kan., pays all the expenses of its water plant and a large amount of its other municipal expenses from the proceeds of a moving picture theatre. The theatre was built by the city and is administered by a local commercial club because of certain legal obstacles to its management by the city. No water rates are charged to consumers.

A course of training for men desiring to enter municipal administration is to be offered at the University of Texas under the direction of Dr. H. G. James, director of the bureau of municipal research and reference, as soon as the necessary organization can be effected. In the meantime, training is afforded by combining the present courses along six lines, to correspond with the main branches of municipal administration, that is, public safety, public welfare, public finance, public education, public law, public health, and municipal engineering.

The American Society of Municipal Improvements held its twenty-first convention in Boston on October 6–9. This was the first meeting ever held in New England and the first since the union of the society with the Association for Standardizing Paving Specifications. Sessions were devoted to the subjects of garbage disposal and street cleaning,

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street lighting, sewerage and sanitation, fire prevention, water works and water supply, street paving, municipal legislation and finance, street traffic and park development, with papers by leading experts in the country.

The Union of Canadian Municipalities held its annual convention at Sherbrooke, Quebec, on August 5, 6 and 7. Papers were read by prominent officials in the dominion on every subject important in municipal affairs.

The annual meeting of the League of American Municipalities was held at Milwaukee on September 29, 30, October 1 and 2.

On September 28–30 the American Association of Commercial Executives had a joint meeting at Cincinnati with the Central Association of Commercial Secretaries.

The first convention of city managers met at Springfield, Ohio, on August 4, 5 and 6, at the call of the city manager of Springfield.

In all probability a national conference of mayors will be held at San Francisco during the Panama Exposition next summer, with sessions during three or four days. A preliminary call has been sent out to mayors of the principal American cities by Mayor Mitchel of New York.

The annual meeting of the National Municipal League will take place at Baltimore from November 17 to 21.

The American Civic Association will hold its tenth annual convention on December 2, 3 and 4, in Washington, D. C.

Plans are being made for the second International Congress of Municipal Executives, which has been secured for the United States, to be held at Washington in September, 1915. Invitations will be sent to officials in every city of the world and to the civic leaders of every country.

The charter commission of Salem, Ore., has just submitted, for consideration at a special election, the draft of a charter which provides for a commission of seven, a recorder and a manager—all but the latter to be elective. The term of office for the elective officials is two years; the commissioners receive no compensation. The manager has charge of the police, fire, street, and other city departments, and is responsible to the commissioners. A commission charter, without provision for a city manager, was defeated at the polls three years ago.

The report on the sewerage situation in Cincinnati, which was made last December by Mr. H. S. Morse, engineer in charge, and Mr. Harrison P. Eddy, consulting engineer, has just been issued as a volume of 730

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pages with about a dozen tables and diagrams. While the report has chiefly a local interest, it treats of matters and theories which apply to all cities and deserves a wide attention. After thirty-odd pages devoted to a résumé of the whole matter, the bulk of the report is given over to a history of the Cincinnati sewer system, a topographical survey on which to base future plans, studies of rainfall and run-off data, the planning of new and relief sewers, of intercepting sewers and creek mains, and the whole question of sewer disposal, and the solving of various local problems of industrial waste and sanitary surveys of streams. Construction work in accordance with the report has already been commenced in Cincinnati, and an appropriation of $3,000,000 has been made for the purpose.

A pamphlet has been issued by the bureau of water revenue in Portland, Ore., which contains some interesting and useful statistics in relation to water works. Answers were secured from 77 cities having a population ranging from 50,000 upward, to a questionnaire on various subjects relating to charges for water, methods of collecting bills, installation and reading of meters, etc.

Negotiations have been started in Los Angeles for the purchase by the city of the street car lines owned by a private corporation. It is stated that, if necessary, condemnation proceedings will be taken to secure the property, which will hereafter be operated as a municipally-owned public utility.

The Somers system of taxation has just been adopted in Corpus Christi and San Antonio, Texas, and it is being favorably considered in San Angelo. Four other Texas cities have had the Somers system in operation for some time—Houston, Galveston, Beaumont and Waco.

The administration of public affairs in the city of Leeds, England, has been given over to a commission of seven aldermen and a city manager. The latter is paid a salary of $7,500 and is permitted to take one hundred days off, during the year, for his own business. Up to the present, it is claimed, a saving of $30,000 has been made in the administration, due to the greater efficiency reached.

A municipal home-rule league has been formed in Harrisburg, Pa., by representatives of 54 municipalities in the state, and resolutions have

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been adopted against certain portions of the law giving the public service commission of Pennsylvania the control which it now has over utilities in municipalities.

A movement has been started by the Municipal League of Seattle for the establishment of a municipal bureau by the federal government. Dr. H. G. A. Brauer of the University of Washington is the secretary of the committee having the work in charge. The project as contemplated by the Municipal League does not necessarily mean that a new department be created, at least for the present; but that all the work relating to municipal affairs be assembled in one bureau and placed under the direction of one man, and thus more accessible to the municipalities.

The movement towards the commission form of government, both with and without provision for a city manager, is still active. In New Jersey there is an agitation in progress for its adoption under the terms of the Walsh Act in all the boroughs, townships and villages of Bergen County, where as yet only two municipalities have that form of government. The chief argument which its advocates are using is based on the successful experience which other counties in the State have had with it. It is being proposed also for the city of Newark, and, should this city adopt the form, approximately one-half of the population in the State will be commission-governed.

In a number of municipalities commission government has failed of adoption during the last few months—in Boonton and Somers Point, N. J.; Hagerstown, Md.; Bay City, Mich.; Chillicothe, Mo.; Oberlin, Kan.; and in Torrington, Conn., where provision was also made for a city manager. On the other hand, it has been accepted in Florence, Ala.; Coleman, Texas; and Titusville, Pa.; and, in connection with the city manager plan, in Big Rapids, Mich.; Boswell, New Mex.; Collinsville, Okla.; Denton, Texas, and in Sandusky, Ohio. Several other municipalities are to have the city-manager form of government: Inglewood, Cal.; Grove City, Pa.; Felix, Ariz.; Rock Hill, S. C.; and Bristol, Va. The scheme was defeated in Waxahachie, Texas. The town of Norwood, Mass., after a contest lasting over two years, voted on October 6 to place the administration of its affairs in the hands of a general manager. The city of Wilmington, Del., is considering its adoption, and commission government is being petitioned for in Frankfort, Ky.

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Recent publications dealing with municipal affairs are as follows: Nathan Matthews, *Municipal Charters* (Cambridge: Harvard University Press, 1914, 203 pp.); H. G. James, *Applied City Government* (New York: Harper's, 1914, 106 pp.); W. L. Gill, *A New Citizenship: democracy systematized for moral and civic training* (Philadelphia: American Patriotic League, 1914, 268 pp.); R. W. Cooley, *Handbook of the Law of Municipal Corporations* (St. Paul: West Publishing Company, 1914, 711 pp.); Flavel Shurtleff, *Carrying out the City Plan: the practical application of American law in the execution of city plans* (New York: Survey Associates, 1914, 349 pp.); International Housing Congress, *Preliminary Report of the Tenth International Housing Congress*, The Hague, 1913 (5 vols.); Carroll Fox, *Public Health Administration in Baltimore* (Washington: Government Printing Office, 1914, 80 pp.) (Reprint no. 201 from Public Health Report, xxix, no. 24); G. C. Whipple, *The Microscopy of Drinking Water* (New York, 1914, 409 pp.); Ella L. Cabot, *Volunteer Help to the Schools* (Boston: Houghton, Mifflin, 1914); *A Course in Citizenship*, edited by Ella F. Cabot, Fanny Fern Andrews, and others (Boston: Houghton, Mifflin, 1914); E. B. Hoag and L. M. Terman, *Health Work in the Schools* (Boston: Houghton, Mifflin, 1914); Horace Cutler and Julia M. Stone, *The Rural School: its methods and managements* (Boston: Silver, Burdett, 1914, 376 pp.); B. Flexner and R. N. Baldwin, *Juvenile Courts and Probation* (New York: Century, 1914, 308 pp.); W. J. Norton, *Illinois Public Utility Commission Law and Municipal Ownership Law* (Chicago: T. H. Flood, 1914, pp. 200); J. Kelleher, *Private Ownership: Its Basis and Equitable Conditions* (Dublin: M. H. Gill & Son, 1914, pp. 212); J. S. Nettlefold, *Practical Town Planning* (London: St. Catherine Press, 1914, pp. 493) and *Garden Cities and Canals* (London: St. Catherine Press, 1914, 220 pp.); C. E. Musgrave, *The London Chamber of Commerce from 1881 to 1914. A retrospective appreciation* (London: Effingham Wilson, 1914, 93 pp.); *The Municipal Year Book of the United Kingdom for 1914*, edited by A. E. Cave (London: Municipal Journal, 1914, 1,193 pp.); *Premier Congrès International et Exposition Comparée des Villes, Rapport* (1914, 718 pp.); D. Pasquet, *Londres et les ouvriers de Londres* (Paris: Armand Colin, 1914, 766 pp.); *Statistisches Jahrbuch deutscher Städte* (20 Jahrgang). Hrsg. von M. Neefe u. a. (Breslau: Wilh. Gottl. Korn, 1914, 907 pp.); M. Schmid, *Verfassung und Verwaltung der deutschen Städte* (Leipzig: B. G. Teubner, 1914, 117 pp.); *Monographien deutscher Städte, Band VII: Frank-*

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furt am Main. Hrsg. von Oberbürgermeister Voigt (Oldenburg: G. Stalling, 1914).

The issues of *The American City* for July, August and September contain the following articles: "Suburban, Interurban and Rural Roads," by W. A. McLean; "The City Manager Plan—The Application of Business Methods to Municipal Government," by Henry M. Waite of Dayton; "Municipal Meat Inspection and Municipal Slaughter Houses," by R. Van Orman; "To Save Time and Increase Accuracy in Assessing Property for Taxation"; "An Analysis of the Chief Causes of Fire," by W. E. Longley; "How to Get Pure Milk," by M. N. Baker; "Public Comfort Stations: Their Economy and Sanitation," by Donald B. Armstrong; "The Modern Park Cemetery," by Hare and Hare; "A Farm that Became a Public Park," by Herbert E. Angell; "The Salem Fire—A Warning and a Lesson," by John E. Lathrop; "How to Promote the Civic Efficiency of Commercial Organizations," by C. R. Woodruff; "A Visit to Ulm, just Prior to the War," by E. E. Pratt; "A Refuse Destructor Plant which Operates a Pumping Station," by E. H. Foster; "Park Sprinkling without Hose," by L. D. Cox; "The Near-side Stop for Street Cars," by W. D. Heydecker; "How to Organize a Municipal Reference Bureau," by John A. Lapp; and "Chicago's Municipal Asphalt Plant," by W. G. Leininger.

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NEWS AND NOTES

Personal and Bibliographical

EDITED BY JOHN M. MATHEWS

University of Illinois

The annual meeting of the American Political Science Association will be held in Chicago, December 29–31, 1914. The sessions will be held at the Congress Hotel and will be seven in number, as follows:

Tuesday afternoon, December 29. Topic for the session, Constitutional Guarantees. Papers and discussion by members of the Political Science Association, the American Philosophical Association, and the Association of American Law Schools. Tuesday evening, Dec. 29. The President's Address, to be followed by a social function. Wednesday forenoon, Dec. 30. Topic for the session—State Government. a. Drafting and Revision of State Constitutions. b. Administrative Surveys. Wednesday afternoon, Dec. 30. Topic for session—Municipal Government. a. Ohio Reorganization (City Manager Plan). b. State and Municipal Control of Public Utilities. Wednesday evening, Dec. 30. Topic for the session—The Administration of Justice—Its Machinery and Organization. Thursday forenoon, Dec. 31. Session devoted to certain phases of International Law. Thursday afternoon, Dec. 31. Business meeting, including reports of committees.

Prof. D. P. Barrows, of the department of political science of the University of California, is chairman of a committee of the Tax Association of Alameda County, appointed to draft a charter for the county.

Dr. C. R. Hall has been appointed instructor in history and politics at Princeton University.

Mr. F. J. Laube has received an appointment as instructor in political and social science at the University of Washington.

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Mr. A. B. Wright, formerly a graduate student at the University of Illinois, has been appointed instructor in political science at the University of Pittsburgh.

Prof. W. A. Rawles, of Indiana State University, has been elected president of the Indiana Tax Association.

Prof. John Bassett Moore has resumed his work as Hamilton Fish Professor of international law and diplomacy in Columbia University.

Prof. Raymond G. Gettell, formerly of Trinity College, has resigned his appointment as professor of government at the University of Texas, and will act instead as the first incumbent in the newly created chair in political and social science at Amherst College.

Dr. W. Evans Clarke has been appointed instructor in politics at Princeton University.

Prof. Frederic J. Stimson, of Harvard University, has been nominated by President Wilson to be United States ambassador to Argentina.

Prof. William E. Mikell will act as dean of the University of Pennsylvania Law School during the leave of absence of Prof. William Draper Lewis.

Mr. Howard T. Lewis, formerly of Hiram College, Ohio, has been called to the University of Idaho, to take charge of the department of economics and political science.

Dr. C. G. Fenwick, formerly of the Carnegie Endowment for International Peace, has been appointed associate in political science at Bryn Mawr College. He will give courses in international law and foreign relations.

Prof. William A. Schaper has resumed his work at the University of Minnesota after a year's leave of absence in which he was engaged in the study of certain problems of municipal government.

Mr. Benjamin Palmer has been appointed assistant in political science at the University of Minnesota.

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Dr. F. B. Clark has been appointed instructor in history and politics at Pennsylvania State College.

Prof. J. H. Russell of Allegheny College has accepted appointment as associate professor of political science at Whitman College.

Prof. William F. Willoughby of Princeton has been appointed deputy constitutional adviser to the Chinese Republic and sailed for Peking in September. He has obtained leave of absence from Princeton, to which institution he will return in the fall of 1916. President F. J. Goodnow, who has taken up his duties as head of The Johns Hopkins University, retains his title of constitutional adviser of the Chinese Republic.

Prof. W. W. Willoughby of The Johns Hopkins University will spend one day each week at Princeton University this year and give two courses of lectures, one graduate and the other undergraduate.

Profs. S. M. Lindsay of Columbia, W. F. Willoughby of Princeton, and W. W. Willoughby of Johns Hopkins constituted a commission sent abroad this summer under the auspices of the New York Bureau of Municipal Research to obtain detailed information regarding methods of accounting, and recruitment and classification of civil servants in England and European countries. The outbreak of the war prevented anything being accomplished upon the continent, but a report will be made by the commission upon budgetary methods and civil service conditions in England.

Mr. Robert H. Whitten has resigned as librarian-statistician of the New York Public Service Commission, First District, to accept a position as secretary of the committee on the city plan of the Board of Estimate and Apportionment of New York City. As secretary of the committee Mr. Whitten is *ex officio* secretary of the recently appointed Commission on Building Districts and Restrictions. This commission will divide the city into districts for the purpose of regulating height, area and location of buildings.

Prof. Charles G. Haines, formerly of Whitman College, has been appointed professor of government at the University of Texas.

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Prof. Herman G. James has been advanced from adjunct professor to associate professor of government in the University of Texas.

Mr. William H. Allen has severed his connection with the Bureau of Municipal Research, New York City.

Dr. W. Starr Myers, assistant professor of history and politics at Princeton University, has been granted leave of absence for the second half of the present academic year.

Dr. T. J. Wertenbaker has been appointed assistant professor of history and politics in Princeton University.

On the withdrawal of Prof. Frank J. Goodnow from Columbia University, his work in constitutional and administrative law was transferred to Prof. T. R. Powell, and the courses in municipal administration were undertaken by Dr. H. L. McBain, who was appointed associate professor of municipal science in May, 1914.

The historical classification of courses in political science in Columbia University has been altered by the union of constitutional and administrative law and the addition of an entirely new subject, politics, which embraces the non-legal aspects of the science of government, or those aspects which are not susceptible of treatment by the case method of instruction.

There has been added to the staff of the Bureau of Municipal Research, University of Texas, Mr. E. T. Paxton, of Rutgers College, as assistant to the director, Prof. Herman G. James.

Mr. Frank Vritts, who received his doctor's degree from Princeton University last June, has been appointed instructor in the department of history and politics in that institution, to take the place of Mr. James E. Winston, who has received an appointment as professor of American history in the University of Mississippi.

Prof. Charles F. Emerick has published in pamphlet form the series of articles entitled *The Struggle for Equality in the United States*, orignially printed in the *Popular Science Monthly* (New York: 1914, pp. 100).

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The Bureau of Railway Economics, established by the railways of the United States for the scientific study of transportation problems, has issued, as Bulletin No. 62, *A List of Publications Pertaining to Government Ownership of Railways* (Washington: 1914, pp. 74). Foreign as well as American books and articles are scheduled, and the libraries indicated in which they may be found.

The Church Peace Union offers pastors, theological students and Sunday school pupils of the United States $5000 in prizes for the best essays on international peace. The essays must be submitted before January 1, 1915. Information regarding the different classes into which the prizes are grouped may be obtained from the Union, 70 Fifth Avenue, New York City.

The bulletin of the American Association for International Conciliation for October, 1914, contains a reprint of official documents bearing upon the European War, including the Austro-Hungarian note to Servia, the Servian reply, the British White Paper, and the German White Book.

The first annual meeting of the American Society of Military Law was held in Washington, D. C., on October 19, 1914, the chief topic for discussion being "Proclamations of Martial Law and their Effect." The presidential address was delivered by Col. Nathan W. MacChesney.

The Pan-American Union has published a list of the books and magazine articles on Latin-American Description and History in the Columbus Memorial Library of the Union at Washington (Washington: 1914, pp. 136).

The May, 1914, *Bulletin of the Western Reserve University* contains an interesting study of the Balkan Revolution by Prof. Bernadotte E. Schmitt.

The Crimes of Bulgaria in Macedonia (Washington: 1914, pp. 43) is the title of a pamphlet which bears the sub-title "An authentic document, based on facts and records, issued by the universities of Athens in the interests of truth and transmitted to the universities of the world."

The July 1914 number of the *Annals of the American Academy of Political and Social Science* (Philadelphia: 1914, pp. 357) is entitled

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International Relations of the United States, and contains nearly forty papers relating to "The Present Status of the Monroe Doctrine," "The Mexican Situation: Its Problems and Obligations," "The Policy of the United States in the Pacific," and "The Elements of a Constructive American Foreign Policy." The September, 1914, number is devoted to various phases of Government Regulation of Water Transportation.

The National University of La Plata has published a classified catalogue of its considerable collection of Latin-American juristic theses (Buenos Aires: Coni Hermanos, 1914, pp. 101).

A welcome addition to the valuable Continental Legal History Series will be Brissaud's *History of French Public Law*, translated by James W. Garner, of the University of Illinois. It is announced for early publication by Little, Brown and Company.

The Bureau of Statistics of the Department of Labor has issued in two volumes the texts of the labor laws both of the United States and of the various States.

As a result of the appointment of committees by the National Assembly of Civil Service Commissions and by the National Civil Service Reform League for the purpose of drawing up a model civil service law, a draft of such a law has been submitted by the first named committee. Unfortunately, the committee of the Reform League did not concur in the report. It is expected that a further report will be made by the committee of the National Assembly of Civil Service Commissions at the next annual meeting of that body.

The National Municipal League will meet in annual session at Baltimore, November 18–21. The American Economic Association will hold its annual Christmas meeting this year at Princeton, N. J., and will meet at San Francisco during the summer of 1915. The Western Economic Society will hold a conference in November at Chicago to discuss "American Transportation Problems." The American Bar Association held its annual meeting October 20–22 at Washington, D. C.

The Proceedings of the Academy of Political Science of New York City for July (pp. 228) consist of a series of collected *Essays on Banking Reform in the United States*, by Paul M. Warburg, recently appointed a member

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of the Federal Reserve Board. They relate principally to the plans for a central bank, and discuss various features of the Owen-Glass Bill. Prof. E. R. A. Seligman contributes an introduction.

Number 18 of the *Kingdom Papers* by John S. Ewart, entitled *Sister States: Is There any Alternative?* answers the question in the negative, and is an argument in support of the author's well known position that Canada and the United Kingdom should not be longer regarded as standing in the relation of subordinate and superior, but that they should be viewed as co-equal sister States having the same King. Number 19 of the same series of papers is entitled *Four-Fifths of the Last Step*, and states the extent to which Canada has obtained the status which Mr. Ewart thinks should be hers. *Contraband, Capture at Sea*, and *Blockade* are the subjects dealt with in Number 20 of the series. The discussion relates to the bearing of present doctrines upon the policy of Canada with reference to contributions to the British Navy.

Die Staat als Schlichter gewerblicher Streitigkeiten in den Vereinigten Staaten, Kanada und Australien is the title of a recent monograph by Heinrich Junghann (Tübingen: J. C. B. Mohr, 1914, pp. 94).

The following are recent issues of Columbia University Studies in History, Economics and Public Law: *The Development of Modern Turkey as Measured by its Press*, by Ahmed Emin (vol. lix, no. 1, pp. 142); *The System of Taxation in China in the Tsing Dynasty, 1644–1911*, by Shao-Kwan Chen (vol. lix, no. 2, pp. 118); *The Currency Problem in China*, by Wen Pin Wei (vol. lix, no. 3, pp. 156); and *Jewish Immigration to the United States, 1881–1910*, by Samuel Joseph (vol. lix, no. 4, pp. 209).

The Papers and Proceedings of the Eighth Annual Meeting of the American Sociological Society held in Minnesota last December have appeared from the press of the University of Chicago (Chicago: 1914, pp. 183). The discussions center around the general problem of social assimilation. The paper by Prof. W. I. Thomas, dealing with the Prussian-Polish situation may be especially mentioned.

Two new additions to the University of Illinois Studies in the Social Sciences are *The West in the Diplomacy of the American Revolution* by Paul C. Phillips; and *The Development of Banking in Illinois, 1817–1863*, by George W. Dowrie.

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The Political and Sectional Influence of the Public Lands, 1828–1842, by Raynor G. Wellington (The Riverside Press, 1914, pp. 131) is an interesting study of the part played by the public lands upon the tariff, upon public finance, and the election of 1840.

The seventh volume of the well known annual *La Vie Politique dans les Deux Mondes*, edited by Viallate and Caudel (Paris: Félix Alcan, 1914, pp. 636) has made its appearance. André Tardieu furnishes the introductory chapter entitled "La politique internationale," and then, as in the former volumes, follow chapters dealing separately with each of the states of the world. or groups of the lesser powers. The period covered is from October 1, 1912 to September 30, 1913. Each new volume to this series serves to increase the value of this important chronique of international affairs.

The Justin Winsor prize essay in American history, for 1912, awarded by the American Historical Association to Arthur C. Cole for his study *The Whig Party in the South*, has been published by the Association (Washington: 1914, pp. 392).

A revised and enlarged edition of Prof. E. R. A. Seligman's standard treatise on *The Income Tax* has appeared from the press of the Macmillan Company (New York: 1914, pp. 743). A new chapter has been added dealing with the federal income tax law of 1913. The chapter on state income taxes has been rewritten so as to include an account of the Wisconsin law.

Under the title *The Old World in the New* (New York: The Century Company, 1914, pp. 327) Prof. E. A. Ross has dealt with the significance of past and present immigration to the American people. The volume is based upon a series of articles contributed during the past year to The Century Magazine. New material has, however, been incorporated into the text, and diagrams, maps and statistical tables added. While not urging a specific plan for controlling immigration, the author is convinced that the importance of the subject demands that a national policy be adopted.

The first half of the second volume of Niemeyer & Strupp's *Jahrbuch des Volkerrechts*, which has appeared from the press of Duncker & Humblot (Munich and Leipzig: 1914, pp. 524), is devoted to publication in

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the original of two hundred and fifty-eight important international documents issued by the governments of the world during the period from September 1, 1912 to September 1, 1913. The first volume of this important publication was noticed in the *Review* for May, 1914 (viii, 319).

The Asiatic Society of Japan has issued a valuable volume entitled *Japanese Government Documents, 1867–1889* (Tokyo: 1914, pp. 681) in which, after an interesting historical introduction of eighty-seven pages, are presented in English translation the source material—laws, ordinances, rescripts, constitutions, etc.—which will "enable the student to follow chronologically the process by which the federal system was destroyed, the administration, whether central or local, gradually organized, and the popular element cautiously admitted to some slight power in legislation."

The *Proceedings of the American Society of International Law* at its eighth annual meeting (Washington: Bryon S. Adams, 1914, pp. 375) are devoted to papers dealing with various phases of the Monroe Doctrine.

The National Economic League has issued a preliminary report *Efficiency in the Administration of Justice* (Boston: 1914, pp. 32). The subject is treated under the four heads: "Causes of Unsatisfactory Law-Making by the Courts," "Causes of Inefficiency in the Disposition of Litigated Cases," "Causes of Inefficiency in Enforcement of Law," and "Remedies." The concluding paragraph reads:

"Reviewing the several causes of inefficiency in the administration of justice above set forth it is evident that no panacea is to be found. The main points to which we should address ourselves appear to be: (1) Proper training of the legal profession; (2) giving the bar greater influence in the selection of judges so as to insure expert qualifications in those who are to perform an expert's function; (3) unification of the judicial system and more effective and responsible control of judicial and administrative business; (4) giving power to the courts to make rules of procedure and thus giving the courts power to do what we require of them; (5) improvement of legislative law-making both in substance and in technique; and (6) thorough study of the new problems which an industrial and urban society has raised and of the means of meeting them with the jural materials at hand."

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The report is signed by Charles W. Eliot, Moorfield Storey, Louis D. Brandeis, Adolph J. Rodenbeck and Roscoe Pound.

The committee on reform in legal procedure of the American Institute of Criminal Law and Criminology, which was appointed to make a study of criminal procedure in England, has issued a report upon that subject which has been published as Senate document 495 of the present Congress.

The first number of volume I of the *Discussions* of the Economic Club of San Francisco contains several addresses dealing with the inefficiency of our courts and the need for their reform.

In this connection should be mentioned the valuable collection of papers published in the March, 1914, number of the *Annals of the American Academy of Political and Social Science*, under the title "Reform in the Administration of Justice."

Dawe's Federalist is the title of a new semi-monthly journal edited and published by Grosvenor Dawe at Washington, D. C., the aim of which is the setting forth "with such particularity as may render each statement valuable, the whole relation of the federal government to business. This will be accomplished by taking up various lines of business and showing their relation to federal legislation, passed or proposed, decisions in federal courts, and activities of federal departments." The subscription price is $12 a year. The first number is dated October 1, 1914.

The eighth volume of the *Jahrbuch des öffentlichen Rechts der Gegenwart* has appeared (Tübingen, J. C. B. Mohr, 1914, pp. vi, 525). It maintains the high standard of its predecessors, and forms an exceedingly valuable guide to the student of recent developments in the public law of the principal countries of the world. The chapter on the United States, written by Prof. Ernst Freund, of the University of Chicago, reviews the course of constitutional development through the sixteenth and seventeenth amendments, and describes the principal acts of Congress during the period 1911–1913.

Mr. Edward Porritt is preparing for Messrs. Constable a work on *Canada Beyond the Great Lakes*. The work will be a history of the constitutional development of Canada from the Confederation to the Great War.

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International Law: Topics and Discussions, 1913 (Washington: Government Printing Office, 1914, pp. 203) contains the notes upon the discussions had at the Naval War College under the direction of Prof. George G. Wilson. Among the topics dealt with are "Marginal Sea and other Waters," "Commencement of Hostilities," "Limitation of Armaments," "Enemy Vessels and their Personnel," "Immunity of Private Property at Sea," "Means of Injuring the Enemy," "Conversion of Private Vessels into Public Vessels," "Transfer of Flag." An appendix contains the text of the French instructions of 1912 for the application of international law in case of war.

Bulletin No. 152 of the United States Bureau of Labor Statistics is devoted to a digest of decisions of courts and opinions affecting labor during the year 1913.

The Case of Belgium in the Present War, published for the Belgium delegates to the United States by the Macmillan Company (pp. 120) gives an account of the violation of the neutrality of Belgium and of the alleged violation by the Germans of the laws of war on Belgium territory.

A History of Guaranty of Bank Deposits in the States of Oklahoma, Texas, Kansas, Nebraska, and South Dakota, 1908–1914, by Geo. H. Shibley, director of the American Bureau of Political Research, has been published as Senate document 522, 63d Congress, 2d session. In appendices are collected the pertinent state statutes and court decisions.

Of especial interest at the present time on account of the European situation is the *Declaration* of the International Naval Conference held at London in 1908-9, and we therefore welcome the publication of the *Declaration* as a Senate document (Senate doc. 563, 63d Congress). The document contains also an opinion by Cone Johnson, solicitor of the state department, upon the transfer of merchant vessels during war.

The sixth annual meeting of the American Institute of Criminal Law and Criminology was held in Washington during the latter part of October. Among the topics discussed were the Indeterminate Sentence, and the Draft of a Code of Criminal Procedure.

The Fifth International Conference of the American Republics, usually known as the Pan-American Conference, will be held in Santiago, Chile,

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beginning November 29. Coming so soon after the mediation of the "A B C" powers, this conference should be of especial significance. It is announced that Secretary of State Bryan will attend the conference, and will also make a tour of the South American countries in the interest of closer relations.

It has been announced by the state department at Washington that, owing to the present state of affairs in Europe, all plans for holding the third international peace conference at The Hague next year have been abandoned.

A *History of Township Government in Iowa,* by Dr. C. R. Turner, has recently been issued by The State Historical Society of Iowa. This volume will be followed in time by a *History of County Government in Iowa,* by Dr. F. H. Garver.

Prof. F. E. Haynes of Morningside College, Sioux City, Iowa, having been granted a leave of absence, will spend the academic year at Iowa City where he will complete his *Third Party Movements in Iowa,* a book which will be published by The State Historical Society of Iowa.

The American Academy of Political and Social Science has under consideration plans for the celebration of its silver anniversary in the spring of 1915.

The following information from the *Bulletin* of the New York City Public Library for March, 1914, containing the report of the director for the year 1913, will be of interest to political scientists. Miss Adelaide R. Hasse, chief of the documents division, says: "In the summer of 1912 a clipping collection bearing on the work of the division was begun as an experiment. It soon developed into a useful tool and now has become indispensable, paying for itself many times over in the increased facility of service to readers. In the beginning it was a clipping collection pure and simple; but as possibilities have manifested themselves, any contributory material has been included and it now comprises booklets, circulars, pamphlets, letters, manuscript memoranda, etc. The base of supplies for the clippings is the newspaper room in the library, which contributes to the division all the papers not kept for binding. The papers so received come from all parts of the world, and are in a variety of languages. Daily papers and trade journals are scanned for notices of circulars, booklets, charts, etc. A member of the staff visits

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all exhibitions held in the city which are likely to yield material for the clipping collection. Managers of out-of-town exhibitions, commercial, banking and civic organizations, have responded generously to applications for literature. The material obtained is mounted on manila backs and the whole is put in small vertical filing cases and arranged by a simple classification.

In the case of controversial legislation, such as the currency bill or income tax measure, clippings, pamphlets, monographs, magazine articles, etc., are filed with the bill. Whatever current material the division has may thus be laid before a reader for his selection. In connection with the municipal ice plant inquiry, photostat copies were made of some of the clippings. During the year a most valuable addition to this collection was received. A very large quantity of clippings, etc., bearing on the administration of Governor Hughes was given the library. Another mass of clippings and correspondence deserving of mention received during the year consisted of the scrap-books given by the late director, Dr. Billings, and bearing on the work of the National Board of Health during Dr. Billings' association with it."

Students of state and national finance will be interested in the series of bulletins now being published by the bureau of the census containing the results of its decennial investigation regarding wealth, debt, and taxation. Instead of waiting until all the material is ready before publishing any of it, as was done the preceding decade, the bureau now purposes to issue bulletins and reports upon particular phases of the subject as they are prepared. Among the titles of the reports recently, or soon to be, published are *National and State Indebtedness, Funds and Investments, 1870–1913; Taxation and Revenue Systems;* and *National and State Revenues, Expenditures, and Public Properties.*

The seventh Pugsley prize of $100 offered through the Lake Mohonk Conference on international arbitration to the undergraduate students of any college or university in the United States for the best essay on "International Arbitration" is announced. The contest, which closes March 15, 1915, will be judged by Charles F. Thwing, president of Western Reserve University; Rear Admiral C. M. Chester, U. S. N. retired; and J. S. Tryon, director of the New England department of the American Peace Society. Not later than the above date, the essays should reach Mr. H. C. Phillips, secretary of the Lake Mohonk conference, Mohonk Lake, N. Y., from whom further information may be obtained.

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A series of pamphlets on civic education has been issued by the committee of the National Municipal League upon that subject. Among the titles are: "Training for Citizenship," "A Plan for the Promotion of Civic Education," "Measuring the Value of Civic Training," and "How Georgia Prepares her Teachers to Teach Citizenship."

Public Finance, by C. C. Plehn; *The Cause of Crime*, by C. R. Henderson; and *The City*, by H. C. Wright are among the volumes announced for publication in the National Social Science Series, edited by President Frank L. McVey, of the University of North Dakota (A. C. McClurg and Company).

As a result of the recent appropriation by Congress of $25,000 for indexing, classifying, and collecting material in the Library of Congress, extensive work along this line will be undertaken by the library. Dr. J. David Thompson of the law library of Congress has been placed in charge of the work; Dr. Ernest Bruncken has been transferred from the copyright office, and Dr. C. W. Collins will also assist in the work.

The Academy of Political Science of New York City will hold a conference at that place on November 19–20, at which the topic to be discussed will be "The Making and Revising of State Constitutions." The addresses will subsequently be published in the *Proceedings* of the Academy. The purpose of the conference is stated to be to direct attention to the questions which are to come before the New York constitutional convention, the delegates to which are to be elected in November, and the sessions of which will begin in April, 1915.

Prof. A. V. Dicey's well-known *Lectures on the Relation between Law and Public Opinion in England during the Nineteenth Century* has appeared in a new edition (London: Macmillan, 1914, pp. xciv, 506). This edition contains in the introduction a sketch by the author of the relations between law and public opinion in England during the first part of the twentieth century.

Recent numbers in the series of brochures issued by the American Society for Judicial Settlement of International Disputes include *The Status of the International Court of Justice*, with an appendix of addresses and official documents, by James Brown Scott (February and May, 1914), and *Justice Between Nations*, by Governor Simeon E.

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Baldwin (August, 1914). The assistant secretary of the society is Tunstall Smith, The Preston, Baltimore, Md.

The *Transactions* of the Commonwealth Club of California for July and August, 1914, are devoted respectively to the "Powers of Cities," under the proposed constitutional amendments in that state, and "The Eight-Hour Law."

The *Proceedings* of the twentieth annual Lake Mohonk conference on international arbitration, held last May, have been published (Mohonk Lake, N. Y., 1914, pp. 235.) The secretary of the conference is H. C. Phillips, Mohonk Lake, N. Y.

Reform of Legislative Procedure and Budget in Nebraska, a report by a joint legislative committee of that State, is published as Bulletin No. 4 of the Nebraska Legislative Reference Bureau (May 15, 1914, pp. 47). It contains many recommendations regarding bills, legislative publications and printing, committees, employees, a unicameral legislative body, civil service reform, a scientific budget system, and the consolidation of state departments, institutions, boards, and commissions. Tables are added showing for each State in the Union the number of bills and the existence of state aid in bill-drafting, the number of legislative employees and methods of selecting them, the cost of legislative printing, and the total expenses of legislative sessions in the several states. This enumeration shows sufficiently the scope and usefulness of the report.

The increasing interest in problems of state taxation and finance is evidenced by the number of state conferences recently held to discuss various phases of the subject. Among such conferences are those of Indiana and Washington, which the state universities in their respective states were largely instrumental in calling together. The *Proceedings of a Conference on Taxation in Indiana*, held February, 1914, has been published by the extension division of Indiana University in the *Indiana University Bulletin*, vol. xii, No. 4 (pp. 189). Among the subjects discussed are "Defects in the Taxation of Corporations," by O. L. Pond; "The Appointment and Supervision of Local Assessors," by T. S. Adams; and "Classification of Land for purpose of Taxation," by W. A. Rawles.

Under the auspices of the extension division of the University of Washington, a state tax conference was held at the university last May.

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The addresses delivered at the conference are published in the *Bulletin* of the university for August, 1914 (Extension series, No. 12, pp. 302). Among the noteworthy papers contained in the volume may be mentioned "The Essential Conditions of Tax Reform," by T. S. Adams; "The Ideal System of State and Local Taxation," by C. C. Plehn; and "Practicable Reforms in State and Local Taxation," by Charles J. Bullock.

Contemporary American History, 1877–1913, by Charles A. Beard (New York: The Macmillan Company, 1914, pp. vii, 397) will prove a useful introduction to the study of current public questions. Eliminating irrelevant details, the author devotes his attention to the principal economic and political developments of the period. Although exhibiting the shortcomings which necessarily attach to the writing of such recent history, the work is nevertheless the most satisfactory single volume covering this period.

In view of the announced intention of Turkey to abrogate the capitulations under which foreigners in that country enjoy exemption from local jurisdiction in civil and criminal cases, there is an especial timeliness in Prof. Philip M. Brown's *Foreigners in Turkey: Their Juridical Status* (Princeton, University Press, 1914, pp. 166). The author shows the origin and present extent of the rights enjoyed under the capitulations, and what modifications of these rights changed conditions are likely to bring about.

The present agitation in favor of closer relations between the United States and the countries of South and Central America makes especially timely William R. Shepherd's *Latin America* (New York: H. Holt and Company, 1914, pp. 256). Such closer relations must be based upon better understanding, and this little book, closely packed with facts, will assist in spreading greater knowledge of the history and present economic and social conditions in these countries. In this connection should be mentioned also *The Two Americas*, by General Rafael Reyes, ex-president of Columbia, which undertakes to interpret to North Americans the feelings and conditions of South America.

Among recent volumes which throw light from various angles upon the events leading up to the present European War may be mentioned Count Ernst zu Reventslow's *Deutschlands Auswärtige Politik, 1888–1913*

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(Berlin: Mittler, 1914); *Imperial Germany*, by Prince Bernhard von Bülow (New York: Dodd, Mead and Company, 1914); Stanley Shaw, *William of Germany* (New York: Macmillan, 1914); F. W. Wile, *The Men around the Kaiser* (Lippincott, 1914); R. G. Usher, *Pan-Germanism* (Houghton, Mifflin); and General von Bernhardi, *Germany and the Next War* (Longmans, Green, new edition, 1914). Intended in part as an answer to the last named work is Prof. J. A. Cramb's *Germany and England* (New York: E. P. Dutton, 1914). Among the first of the new books with which we will undoubtedly be flooded as a result of the war is Prof. Hugo Münsterberg's *The War and America* (New York: D. Appleton and Company, 1914).

Of especial interest in view of the effect of the European war upon American foreign trade are *International Trade and Foreign Exchange*, by Henry Gunnison Brown (New York: Macmillan, 1914), and *American Public Opinion*, by J. D. Whelpley (New York: E. P. Dutton and Company, 1914) author of *The Trade of the World*, a work previously noted in these columns. Dr. Brown's work treats of the economic laws of international trade, and has chapters on the "Nature and Effects of Bounties," and "Uneconomical Government Interference with and Encouragement of Transportation." Mr. Whelpley's new book considers the relations of the United States to the principal foreign countries, and to such general questions as immigration and "food as an international asset."

One of the most thoughtful and well-balanced discussions of the race question which have recently appeared is found in *Democracy and Race Friction: A Study in Social Ethics*, by John M. Mecklin, professor of philosophy in the University of Pittsburg (New York: The Macmillan Company, 1914, pp. xi, 273). The author recognizes that whenever races of greatly different degrees of civilization are brought in close contact with each other, racial prejudices are bound to arise and complete social and political equality is impossible. Inequality of races is not, however, incompatible with democracy, for at the basis of democracy lies, not equality, but freedom. The volume as a whole is a successful attempt to face the inconsistencies between the prevailing theories and practices of democracy and to construct a theory of democracy which will fit actual conditions.

Among books recently published or announced for publication, the following are of interest to students of political science: *Applied City*

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Government, by Herman G. James (Harper); *Municipal Life and Government in Germany*, by W. H. Dawson (Longmans); *Our Dishonest Constitution*, by A. L. Benson (Huebsch); *Readings in Political Philosophy*, by F. W. Coker (Macmillan); *State and County Educational Reorganization* and *State and County School Administration*, by E. P. Cubberley (Macmillan); *Concerning Justice*, by L. A. Emery (Yale University Press); *Municipal Citizenship*, by George McAneny (Yale University Press); *American Citizenship*, by Charles A. Beard and Mary R. Beard (Macmillan); *The Anti-Trust Act and the Supreme Court*, by William H. Taft (Harper); Norman Angell's *Arms and Industry: The Foundations of International Polity* (Putnam); D. J. Hill's *History of European Diplomacy*, vol. iii (Longman's); and Herbert Croly's *Progressive Democracy* (Macmillan).

W. B. Bizzell's *Judicial Interpretation of Political Theory* (New York: G. P. Putnam's Sons, 1914, pp. v, 273) deals with some political issues that have taken the form of controversies over the construction of the Constitution and some of which have received their final settlement in court, such, for example, as the question of the nature of the Union, the question of internal improvements (in its earlier stages), the question of the right of the government to acquire and govern territories, etc. The volume is discursive, is for the most part based upon the works of previous writers, and contains numerous errors. McCulloch *vs.* Maryland is referred to fifteen times, and always as McCullough *vs.* Maryland.[1]

The various questions of foreign policy and international relations of the United States which have lately become acutely important render especially welcome the appearance of three volumes by well-known publicists, dealing with various phases of this general subject. In *The United States and Peace*, by ex-President Taft (New York: Scribner, 1914, pp. 182) the distinguished author treats of the Monroe Doctrine, the protection of aliens in their treaty rights by the federal government, arbitration treaties and the Senate, and experiments in federation for judicial settlement of international disputes. The address of Charles Francis Adams before the American Society of International Law last April on *The Monroe Doctrine and Mommsen's Law* has been reprinted in book form (Boston: Houghton, Mifflin, 1914, pp. 43). It undertakes to elucidate the bearing upon the Monroe

[1] Furnished by Prof. E. S. Corwin, Princeton University.

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Doctrine of the so-called law, attributed to Mommsen, of the inevitable hegemony of the advanced States over States still in political nonage. *American Policy*, by John Bigelow (New York: Scribner, 1914, pp. 184) though bearing the subtitle: "The Western Hemisphere in its Relation to the Eastern," is devoted almost entirely to various implications of the Monroe Doctrine.

The second part of Dr. Karl Strupp's *Völkerrechtliche Fälle*, of which the first appeared in 1911, has been brought out through the press of Audreas Perthes (Gotha, 1914, pp. ix, 103). It is devoted especially to cases illustrating Anglo-American international practice. Many of the cases it contains are already to be found in American and English case-books. There has long, however, been a need in the teaching of international law for a book of illustrative material which shall not be confined entirely to cases adjudicated in the courts. This need appears to be to a considerable extent met by Prof. T. J. Lawrence's *Documents Illustrative af International Law* (Boston: D. C. Heath and Company, 1914, pp. xi, 351). This volume contains a large number of documents of various kinds bearing on the development of international law from the writings of Grotius and Pufendorff down to the Declaration of London. Not all the various fields or divisions of international law are covered with equal fullness, but this is not a very serious defect, and the volume will undoubtedly be a welcome aid to all teachers of the subject.

There is much of interest to political scientists in Dr. S. J. Buck's *The Granger Movement: A Study of Agricultural Organization and its Political, Economic and Social Manifestations, 1870–1880* (Harvard Historical Studies, vol. xix, 1913, pp. xi, 384). For the student of constitutional law there is a full and satisfactory discussion of the "Granger legislation" and the "Granger cases." The account of the Granger movement as a political force presents for the first time an adequate history of the Granger parties, which were the precursors of the Populist party. As the author says, the Granger movement forms an integral part of the political development which gave rise to the Populist party and to the later progressive movement.[1]

Athenian Clubs in Politics and Litigation is the title of a bulletin of the University of Texas (1913, pp. v, 172) by Dr. Geo. M. Calhoun, a most elaborate study, worked out under the guidance of Prof. R. J. Bormer, a recognized authority in the field of Greek legal and political

[1] Prepared by W. F. Dodd, University of Illinois.

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antiquities. Thanks to the accession of some new material, notably Aristotle's *Athenian Constitution*, the author is able to make an appreciable advance upon Wilhelm Vischer's brilliant treatment of the same subject (1836), which has so long held the field. The emphasis of Dr. Calhoun's work is laid upon the actual workings of the organizations, and their highly varied, generally disreputable activities are described in minute detail. The only serious fault to be found is a tendency, through excess of zeal, to strain evidence and throw the net too wide. It is to be hoped that the author will extend his studies to cover the activity of aristocratic clubs in communities other than Athens, especially such as the Pythagorean brotherhoods, and to include the history of later periods.[1]

The Regulation of Public Service Companies in Great Britain, by Robert H. Whitten (New York: 1914, pp. 231), is reprinted from the annual report for 1913 of the New York Public Service Commission for the first district. The work is the result of an investigation undertaken by Dr. Whitten in behalf of the department on Regulation of Municipal Utilities of the National Civic Federation. It contains a valuable survey of the various methods adopted in Great Britain for the regulation of public service companies, such as the sale of shares at public auction or tender, the audit of accounts, and the sliding scale plan. For purposes of comparison, supplementary chapters are included on the Boston sliding scale and the Toronto auction sale and maximum dividend plans. In place of both the sliding scale plan and the system of occasional rate regulation, the author suggests what he calls the "merit rating" plan, according to which the public service commission will "rate the companies on the basis of comparative efficiency in serving the public and allow them to earn dividends varying with such efficiency" (p. 227). The author, however, appears to underestimate somewhat the difficulties connected with the determination of the comparative efficiency of the companies in serving the public. The degree of control exercised by state commissions over public service companies would probably be increased through the adoption of the suggestion made by the author that the commissions be empowered to require the companies to have their accounts audited by competent outside accountants.

Under the title *The Changing Order* (New York: G. P. Putnam's Sons, 1914, pp. 287), ex-attorney-general George W. Wickersham has gathered together thirteen addresses delivered by him upon various

[1] Prepared by W. A. Oldfather, University of Illinois.

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occasions during the last few years. The first seven and the last two, which are of a miscellaneous character, dealing with such subjects as "College Men and Public Questions," "Engineering and Culture," "Palimpsests," "The Progress of the Law," have slight, if any, unity, and cannot be said to make any substantial contributions either to jurisprudence or to law, although they testify to the broadness of the author's intellectual interests. Four of the chapters, however, which are entitled respectively "Recent Interpretations of the Sherman Act," "Further Regulation of Interstate Commerce," "Results of the Trust Dissolution Suits" and "Federal Control of Stock and Bond Issues by Interstate Carriers" have a close connection with one another and together serve to present in an interesting and illuminating manner Mr. Wickersham's views with regard to the constitutional limits of the regulative power of Congress over commerce among the States, and the policies that should control the exercise of this power. Two of his positions may be mentioned, and possibly criticized. Commenting upon the case of West v. Kansas Natural Gas Company, he says: "If, therefore, the State cannot control the transmission of natural gas produced within its borders to other States, because to concede that control would be in effect to empower it to cut off at its source all of the objects of interstate commerce, how can it retain the right to prohibit the manufacture within its limits of commodities intended to be shipped in interstate commerce? . . . . If the constitutional right of Congress to regulate interstate commerce attaches to the commodity the moment it is in existence in the hands of the owner, so that the State may not prohibit its shipment in interstate commerce, does it not apply as well from that moment to prevent the owner from himself, by combination or agreement, imposing any undue restraint upon its shipment in such commerce?" Again, he says: "It is contended that the right to carry on commerce between the States is not one *created* by the federal Constitution, but a right which the Constitution found in existence and which it gave Congress power to regulate. This is perfectly true as to individuals, but not as to corporations." The distinction here made between individuals and corporations is not self-evident. If it be conceded that the right to engage in interstate commerce is a right which the citizens of the States possess independently of federal creation, it is difficult to see why the same right does not inhere in corporations duly created and empowered by the States, unless, indeed, we are to speak of the right of individuals to engage in interstate commerce as a "natural right" existing independently of state law—a position it may be imagined Mr. Wickersham would not be willing to assume.

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UNIVERSITY TRAINING FOR PUBLIC SERVICE

By Edward A. Fitzpatrick

Nowhere in the United States is there a training school for public service in connection with a university. Everywhere there is need for the trained public servant. The universities have well established law schools, medical schools, engineering schools and agricultural colleges. They have established separate schools for the training of business men, ranking in dignity with the others. But the medical schools do not provide the training for the public health work. The engineering schools do not provide the training for public works administration. The law schools do not even recognize that they may do anything in training judges.

The only field of public service in which there is fairly adequate provision for training is in the field of educational administration. It is a rather striking fact, too, that the two schools that are in the van of the movement are connected with privately endowed institutions—Teachers College, Columbia University, and the School of Education at the University of Chicago. Even here practically no attention is given to the field of university teaching and administration.

The best that can be said at the present time is that there is a consciousness of the problem of training men for public service, and some effort is being expended in trying to solve it. Presidents Roosevelt and Taft issued executive orders putting the consular and diplomatic service on a merit basis. The universities responded by establishing courses. It probably will be granted that the response is more significant as a sign of the university's willingness to help, than of a practical value of the courses proposed. Yale and Columbia coöperate in the outlining of courses in preparation for the foreign service. Harvard and the Massachusetts Institute of Technology coöperate and organize a school for health officers. Both steps are applauded. Chicago is striving valiantly to work out the problem. Texas is attempting its solution in the municipal field. But to find anywhere training for public service on a level with the training for the professions or for private business is not possible.

Turn, on the other hand, to training for the military service. West Point and Annapolis are the answers. Definitely planned courses of study combined with field training, carefully selected instructors, administration under the direction of a great national department, frequent inspections by high military officials, all show the importance that is

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attached to training for the military service. But more, the graduate of the institution is guaranteed a position on graduation, and is in direct line of promotion to the highest position. Is the civil service as important as the military service? Does it require similar preparation?

Fortunately we have viewed our army not merely as an instrument of destruction, but as a possible constructive force. Panama is an eloquent answer to the question whether we can train for *civil* service. This is an interpretation of Panama that has not been sufficiently emphasized. The other "civil" work of the army and navy illustrates the same point, and there is abundance of it. Just as significant, too, is the continued training of the army officer. Major General Wotherspoon outlines it thus:

"There has been built up in the army an educational system directed to that end that exceeds in completeness any other educational system in the country. Professional training in the army, unlike in some professions, does not cease when an officer has won his commission; it goes on through all his career.

"Here, we will say, we have an officer who has completed the four-year course at West Point and has been commissioned in a regiment. Immediately he starts on a supplemental three-year course in the garrison schools. If he proves to be successful in a competitive examination he goes thence to the service school of his arm—infantry, cavalry, field artillery or coast artillery. A year there and, if he again wins in a competitive examination, he goes to the staff college for another year. Graduates of the staff college constitute a preferred class for admission to the war college for its one-year course. Ten solid years of study, you will observe. But that is not all; there is a post-graduate course to be taken every year."[1]

Universities are everywhere taking the first steps in training for public service. The University of Chicago is limiting the number of students that may enter its "commerce and public service" course so that it can work out its problem. The University of Cincinnati is placing its engineering students on its coöperative plan in city departments. Throop Polytechnic School has a similar experiment under way.

There has developed recently a practice that has much significance for training for public service. It is the bringing of university men into public service. W. F. Willoughby goes as adviser to the Chinese Republic. Durand leaves the census bureau to go to the University of

[1] Quoted from the New York Press, May 10, 1914.

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Minnesota, and is soon directing the economy and efficiency investigation. Fairlie is doing a similar job for Illinois. Commons is a member of the Federal Commission on Industrial Relations, and McCarthy is director of investigations—and so it goes. Along with this is a tendency to make the university the scientific bureau of the State. The Maryland Geological Survey is placed at Johns Hopkins; the Wisconsin public health laboratory is placed at the university; the Cincinnati bureau of city tests is conducted by the engineering department of the university, and the Cincinnati municipal reference bureau is conducted by the political science department. The University of Kansas makes "the physical valuation of the railroads of Kansas for the Kansas public utility commission," and "the investigations for the state bank commissioner under the 'Blue Sky' law of new schemes which may be good or bad, by companies of various kinds." Such facts as these show that in the universities now there is a basis and opportunity for training men for public service.

The Committee on Practical Training for Public Service has outlined plans for training schools for public service. A copy of the pamphlet will be mailed to any reader of the AMERICAN POLITICAL SCIENCE REVIEW, upon request.[2] The committee hopes that no university will attempt to train men for all kinds of positions in the public service. If ever there was a field of effort in which the division of labor would be productive of good, it is here. Every institution ought to try to do only that work for which it has sufficient funds, well trained staff, adequate equipment, and present opportunities. It is not at all clear that every university in the United States, even those included in the Association of American Universities and the Association of State Universities, ought to take up now the work of practical training for public service. Those who are now ready to do this work should restrict themselves to the municipal service, state service, national service or the field of foreign service, depending, as remarked above, on funds, staff, equipment and opportunity.

The kind of organization that each university should adopt, will depend on what it proposes to do. If it wishes to develop men of large point of view who have contact with actual conditions, it will develop its graduate school and require its students to have one year of field training. This is to be secured by providing that a year of practical training may be accepted as a year of "residence" according to the following proposed standard regulation.

[2] Charles McCarthy, Box 380, Madison, Wisconsin.

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Candidates for the degree of Doctor of Philosophy must pursue their studies in residence for a minimum period of three years, provided however that the period of residence may be proportionately extended to students from institutions in which the course of study is not regarded as equivalent to that in ———— College. In rare cases, students may, with the approval of the proper administrative authority satisfy the residence requirement in two years.

The requirements of time for the degree of Doctor of Philosophy are wholly secondary. This degree does not rest on any computation of time, nor on any enumeration of courses; although no student can become a candidate for it until he has fulfilled the requirements of residence and study for the prescribed periods.

Candidates for the doctor's degree, in political science or political economy, conforming to all the other regulations for such persons may fulfill the resident requirements of three years graduate study as follows: (1) Two years resident graduate study in some recognized institution of learning, at least one of which must be spent at this university; (2) Practical work for at least eleven months in a governmental department, bureau or commission, a legislative reference library, a bureau of municipal research or similar organizations under the following conditions: that a statement of facts regarding opportunities for practical work, nature and extent of supervision of student's work and related facts be submitted to the department by the committee on Practical Training for Public Service of the American Political Science Association or by a member of the department and accepted by the department concerned as satisfactory; that weekly or bi-weekly reports of time spent and work done be kept on the forms suggested by the committee on Practical Training for Public Service or similar forms, and submitted to the professor in charge of the major subject of the student, currently; and that the institution where student is working be visited by a representative of the department or of the committee on practical training at such intervals as the department may think necessary.

Some schools might very well establish schools for public service similar in rank and dignity to the professional schools of law and medicine. Institutions in large cities might very well organize the proposed graduate school of public administration providing for continuation training for men in public service, on a plan similar to the Graduate School of Medicine at Harvard. Every university could very well establish an institute of government and social research similar to the Mellon Institute of Industrial Research. Every institution is now such

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an agency, only its investigations are not specifically directed to public service opportunities.

How much training the man will need depends upon where he is to enter the service. Our present concern is with the higher administrative officials. Two years college work ought to be the minimum basis for specific professional training for public service. There ought to enter into the foundation training of all persons to be in any way connected with public service the following studies: actual government (administration) administrative law; accounting, especially cost and governmental accounting; statistics and graphic presentation; report-writing (English composition); effective speech (debating essential); social study of politics, economics and human association; and fundamental legal concepts.

In every case there ought to be supervisory field training under such safeguards as was proposed by the committee on Practical Training for Public Service at the last annual meeting of the American Political Science Association. The theoretical and the practical must be co-ordinated, as is now happening in universities with relation to their laboratory work. The lectures are treating one subject, the quiz master is questioning on an unrelated part of the text book, and the laboratory work is lagging far behind both. There is need here for coördination and reinforcement. There will be some need if the so-called laboratory work in political science (we choose to say "practical training") is given away from the university. Doctors' theses might very well deal with actual problems. We may come to the time when a piece of work which needs to be done for a community and is well done by a student, will be accepted in lieu of a doctor's dissertation. At that time, too, a professor's reputation may not depend on the books he has written but on the things he has done.

In some particular W. S. Franklin's "Bill's School and Mine" is a remarkable book. It is one of the few unconventional books on education. It has insight. One of the trenchant things in the book is: "Let no one imagine that such a program is impracticable; for in the city, school is the sum of all influences outside the home, and the school day is now more that eight hours, the school week is more than six days, and school lasts the whole year through; these are the facts, say what you will; and everything is in a dreadful state of confusion—excepting only book work. It is time for us to think of the public school as including everything which makes for the efficient organization and orderly control of the juvenile world."

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Has this any application to university education—and particularly to training for public service?

DECISIONS OF STATE COURTS ON POINTS OF PUBLIC LAW

Separation of Powers. Ormsby County vs. Kearney. (Nevada, August 4, 1914. 142 Pac. 803.) Sustains the statute vesting the determination of water rights in the state engineer, subject to an appeal to the courts. Full opinion discussing constitutional aspects, also dissenting opinion.

Delegation of Legislative Power. State vs. Howard. (Nebraska, May 29, 1914. 147 N.W. 689.) An act of 1913 directs the insurance board to prepare a form of fire insurance policy as nearly as practicable in the form known as the New York standard. Other provisions of the act have however the effect of varying some of the provisions of the New York standard form.

The duty of the board is to arrange and prepare in proper form the form of contract required under the Nebraska statute, omitting all provisions of the New York form which are in conflict with the law of Nebraska. Its duties are therefore administrative and not legislative and there is no unconstitutional delegation of legislative power.

The direction to use the New York form, as it may hereafter be constituted is, however, invalid because the duties of the officials of the State would thereby be controlled by the future action of the legislature of another State.

Home Rule. Davis vs. Holland. (Texas, May 30, 1914. 168 S.W. 11.) A charter provision giving a city the exclusive right to control draining and plumbing, cannot prevail against a general state law upon the same subject, since under the constitution authority cannot be conferred upon the city to suspend state laws.

Civil Rights and Police Power. Streich vs. Board of Education. (South Dakota, June 8, 1914. 147 N.W. 779.) In the absence of a legislative prohibition a school district may by resolution require of pupils seeking admission into the public schools the furnishing of a physical record card. This is a reasonable exercise of the police power which does not illegally add to or vary the statutory qualifications for enjoying the benefits of the public school system of the State. "The report asked for would lead to the exclusion of the pupil only when it showed that the child was not of school age, that it was not a resident of the district, or, if the

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respondents so ordered, when it showed that the child was then suffering from some disease rendering it a menace to its associates."

Personal rights—regulation of marriage. Peterson vs. Widule. (Wisconsin, June 17, 1914. 147 N.W. 966.) Wisconsin eugenics law sustained. The State may require of applicants for license to marry the submission to recognized tests to ascertain freedom from disease. Such requirement may be confined to males.

Police power—articles of consumption. State vs. Hutchinson Ice Cream Company. (Iowa, May 12, 1914. 147 N.W. 195.) The standardizing of ice cream by fixing permissible ingredients is within the police power of the State, although the object of the law is not sanitary, but merely to prevent fraud.

Police power—regulation of business. State vs. Pitney. (Washington, May 16, 1914. 140 Pac. 918.) The State may, by imposing an annual license fee of $6000, in effect prohibit the use of trading stamps in the sale of goods.

"This conclusion, it must be admitted, is not in harmony with the great weight of authority, numerically speaking. But many, if not most, of the decisions that have held trading stamp laws inimical to the due process of law clause found in the constitutions, were decided when the police power was defined as having a more limited scope than it has at the present time."

Police power—licenses. Keller vs. State. (Maryland, February 25 and May 13, 1914. 90 Atl. 603.) The State may validly require as a condition for engaging in the business of an undertaker the possession of a license to be issued by a board upon examination.

Police power—outdoor advertising. Horton vs. Old Colony Bill Posting Company. (Rhode Island, June 26, 1914. 90 Atl. 822.) An ordinance regulating structures for advertising sustained as a safety measure. The police board may be vested with power to refuse the written approval required for out-door advertising if it decides that the matter to be displayed is immoral.

Police power—retroactive regulation. (Re McIntosh. 211 N.Y. 265. 105 N.E. 414.) A city ordinance may forbid the issue of garage per-

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mits for buildings situated within 50 feet of a school or tenement house or place of public amusement or assembly, and the prohibition may be applied to buildings used as garages at the time of the enactment of the ordinance, and not available for any other kind of business.

Municipal regulation of business. Brittingham etc. Company vs. Sparta. (Wisconsin, May 21, 1914. 147 N.W. 635.) A city ordinance may require all coal sold in the city to be weighed on city scales. This is not an illegal discrimination against coal dealers. The court, however, holds that the dealer cannot be punished for not complying with the ordinances if ample opportunities for weighing are not afforded by the city.

Equality—franchise grants. East Boyer Telephone Company vs. Inc. Town of Vail. (Iowa, May 16, 1914. 147 N.W. 327.) The use of streets for a quasi public purpose being a special privilege, it does not violate the equal protection of the laws, that the right is conditioned upon the consent of the voters, whereby the use of the streets may be granted to one telephone company and denied to another.

Objects of taxation—public relief. State vs. Edmondson. (Ohio, February 3, 1914. 106 N.E. 41.) An act providing relief for any person (satisfying specified requirements of residence) who, by reason of loss of eyesight, is unable to provide himself with the necessaries of life and has not sufficient means of his own to do so, is unconstitutional as a mere bounty, since the person declared entitled to relief may be actually supported by children and friends. Otherwise where the relief is confined to one who unless thus relieved would become a charge upon the public or upon those not required by law to support him.

Taxation—special assessment. Shultise vs. Taloga. (Oklahoma, May 12, 1914. 140 Pac. 1190.) The apportionment of the entire cost of a sidewalk pavement upon the abutting lots according to their frontage without any preliminary hearing as to benefits, may be authorized by the legislature, and this will not constitute a taking of property without due process of law.

Due process—punishment. Strong vs. State. (Tennessee, May 9, 1914. 166 S.W. 967.) An act is unconstitutional which provides that a prisoner who escapes and is recaptured may be held without hearing to work out the costs of the recapture.

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Due process—enforcement in equity: "red light injunction." State vs. Fanning. (Nebraska, May 4, 1914. 147 N.W. 215). State vs. Gilbert. (Minnesota, June 12, 1914. 147 N.W. 953.) Acts sustained which permit proceedings in equity in the name of the state to abate as a nuisance a building used as a disorderly house.

The Nebraska case holds the provision assessing a penalty or tax on the building to be unconstitutional, but sustains the provision for closing the house for one year unless sooner released on bond.

The Minnesota case holds both provisions to be valid, the assessment being treated as a tax (relying on 121 Iowa 482. 196 U.S. 279.)

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BOOK REVIEWS

Private International Jurisprudence. By J. A. Foote. Fourth edition by Coleman Phillipson. (London: Stevens and Haynes. 1914. Pp. 566)

The fourth edition of this solid work has just appeared. It is a book that has a distinct place in the literature of the subject. The author does not profess that it is a treatise on Private International Law, "in the ordinary sense of the phrase," nor does he expect to do over again the work so admirably and exhaustively done by Story, Dicey and Westlake.

As he well says "private international law is to be collected from the judicial decisions of many nations and from the writings of many jurists." Mr. Foote has no purpose to do this but confines himself absolutely to the English decisions and aimed to write a compact treatise based wholly upon English adjudications. These adjudications he discusses fully and ably and his work would seem indispensable to anybody who wishes to have in relatively small compass the opinions of the English Courts on international private law problems.

The difference between this work and that of Westlake is very evident at a glance. For instance, Westlake's last edition begins with the topic of that most puzzling of problems, "The Renvoi." This doctrine about which so much has been written and said in continental Europe is not even mentioned in Mr. Foote's book, although it formed the subject of an admirable monograph by the English barrister Mr. Pawley Bate, called the "Doctrine of the Renvoi."

Perhaps the explanation of this is found in the fact that the first edition was published in 1878 before the doctrine had been apprehended as it has today. Dealing as it does with the necessary conflict between those countries adopting nationality as a basis for legal rights and capacities and those adopting domicil, a treatise on private international law that does not mention it seems somewhat antiquated.

The lack of all references to foreign decisions also deprives the book of much interest which it might otherwise have. Nevertheless it is a most useful working book and will be of avail to the American lawyer, for our

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literature on the subject of international private law is wofully scant and there is much light to be derived from the English cases. The utility of the book is evidenced by the fact that it has gone through four editions and the last edition seems to be admirably annotated so as to bring the work down to the present date.

The arrangement of the book while not novel is simple and of easy reference. Persons, property, acts and procedure are the sub-divisions and the book is concluded by an excellent brief summary. This summary contains a kind of codification of the English rules as deduced from the decisions and is as well done as the present somewhat unsettled state of English jurisprudence permits.

The author seems to have avoided expression of personal opinions in discussing the doctrines set forth by the various cases and has confined himself to an analysis of the decisions, quoting liberally from the opinions of the judges.

Moorehouse v. Lord, 10 H. L. Cas. 272.

The English law of domicil is fully discussed but little stress is laid upon what was called in one of the cases "the new or improved doctrine" of domicil which, while it may not have yet been accepted in England, appears to have been accepted in New York. There the tendency is to allow the domiciliary question to be settled mainly by the formal declaration of a decedent and to make it almost impossible to adjudge him to have been domiciled contrary to his declaration of domicil, even though he may have lived abroad with scarce any actual evidence of return.

Nor is the question of "voluntary submission" discussed, yet this doctrine has been adopted formally in the New York Statute law as follows:

"Sec. 47. *Validity and effect of testamentary dispositions.* The validity and effect of a testamentary disposition of real property, situated within the state, or of an interest in real property so situated, which would descend to the heir of an intestate, and the manner in which such property or such an interest descends, where it is not disposed of by will, are regulated by the laws of the state, without regard to the residence of the decedent. Except where special provision is otherwise made by law, the validity and effect of a testamentary disposition of any other property situated within the state, and the ownership and disposition of such property, where it is not disposed of by will, are regulated by the laws of the state or country, of which the decedent was a resident at the time of his death. Whenever a

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decedent, being a citizen of the United States, wherever resident, shall have declared in his will and testament that he elects that such testamentary dispositions shall be construed and regulated by the laws of this state, the validity and effect of such dispositions shall be determined by such laws. (Amended by L. 1911, ch. 244, in effect June 6, 1911)." (Decedent's Estate Law.)

U. S. Trust Co. v. Hard, 208 N. Y. 617.

A certain lack of modernity and the absence of any attempts at philosophic treatment deprive the book of much of the interest which attaches to all that relates to the contact of different civilizations and their resulting legal systems, but it remains a useful tool for the practitioner.

It is to be regretted that in America with its different legal systems in every state, no systemized endeavor is made to analyze the growing body of international private laws.

On the Continent there are numerous magazines for this purpose, but none are found in England and America and even the English Courts do not seem to have devoted to it the time and attention which its growing importance warrants.

FREDERIC R. COUDERT.

Hellas and the Balkan Wars. By D. J. CASSAVETTI. (New York: Dodd Mead and Co. 1914. Pp. 368.)

Considerable ignorance, no doubt, has prevailed among people generally in England, on the Continent, and in America, with regard to the Balkan States, their liberty and their recent development in wealth and power. The success of the allies in the war with Turkey aroused a good deal of interest in the Balkan people among intelligent readers; and many would be glad of an authentic, unbiased account of the recent wars and the accompanying events. Such a work, however, can only be expected from the pen of an expert historian who comes from an outside and neutral country, and who has had access to the official sources of the various participants in the two wars.

In the present instance, Mr. Cassavetti—an Anglo-Greek and an M.A. of Oxford—has attempted to tell the story of the part played by Greece in both conflicts. His motive is two-fold: To give the English-speaking people a correct and intimate picture of the Greek nation; and to furnish an accurate account of the naval and mili-

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tary campaigns of the Greeks in the two wars. The work is well done; and the author has related his facts in an interesting, straight-forward manner, with an evident intention of being impartial. He was in the Balkans during a part of the first war, and has obtained a good deal of information from Greek officers and men in service during both campaigns. Also from Commander Cardale of the British navy, who was an attaché of the Greek fleet. But it is evident that he has not had access to the Greek official documents and records, or to those of Turkey or of any of the other Balkan states. This is unfortunate, as it detracts materially from the value of his narrative—particularly as he treats all operations and manoeuvers solely from the Greek point of view.

Occasionally there is a tendency to over-estimate the work of the Greek forces. The story of the Macedonian, the Epirus, and the second war campaigns is well and clearly told; but, while the operations of Greece are highly praised, little is said of her allies. Even her best friend—Servia—receives but scant treatment. This is due, without doubt, largely to the greater familiarity of the writer with the movements of the Greek army. It is too bad he did not delay the publication of his book until he could have secured accurate information concerning the manoeuvres of the other armies, at least from Servia and Turkey. If this had been done it would have greatly enhanced the value of his volume. As it now stands, the work is more a testimonial of the efficiency and capacity of the Greeks as soldiers, than a history of the two Balkan wars. In this form, however, it is not without merit, since it demonstrates clearly that the Greek soldiery has very largely recovered its reputation, lost in 1897, for bravery and endurance.

Mr. Cassavetti has unfortunately given too much space to such disputed topics as the Albanian question and the "Bulgarian massacres"—particularly as, in each instance, he has given only one side of the picture. In Chapter XXIV the author makes a special effort to convict the Bulgarians of cruelty and inhumanity, but says that the Greeks were guilty of nothing beyond the usual excesses of war. He heads his chapter "Bulgarian Atrocities," when good taste alone should have led him to call it "Balkan Atrocities," and the merit of his case demanded that he admit some irregularities on the part of Turks, Serbs and Greeks—particularly in view of the recent report of the special commission appointed to investigate this whole question. If this chapter had to be written, it would have been better to

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have delayed the publication of the book until the author was in a position to tell the whole story of these atrocities. No one can readily deny what he says about the Bulgarians; and the testimony of King Constantine concerning the Greeks is above reproach. But a clear statement of the entire question, with a full citation of authorities, might have made the case of Greece stand out fairly well in comparison with the others.

The author has, moreover, laid himself open to considerable criticism by dogmatic statements upon points—either disputed by the best authorities, or extremely difficult to prove. On such an unsettled subject as the population of Macedonia he writes (p. 312): "The Macedonians so-called are admitted to be a mixed race in which the Slav and Greek strains largely predominate," (no mention of Bulgars and Vlachs or Roumanians), and in Central Macedonia, "the people of Greek sympathies outnumber the Bulgarian supporters two to one." In the first chapter he accuses the Bulgarians of cruelty and massacres in Macedonia before the wars, but claims that the Greek bands only defended Greek villages and "roamed the mountain districts of Southern Macedonia keeping alive the patriotism of the Greek peasants. On page 357 he states: "While the Turks had Greek representatives, such as Karatheodori Paslea in Berlin and others in similar posts, they kept their heads above water; but, since they have given up employing Greeks and have allowed the young Turks to persecute the Greeks, everything has gone wrong with them." And again, on page 311, "The Greeks say that the chief intellects in Bulgaria are people either of Greek descent or else pure Slavs."

The chapters by "Lascaris" and by the author on the Hellenic nation and the life of its people are so well done and so illuminating that one wishes more of the book had been devoted to "Hellas" and less to the war and its controversies. We have the author to thank for a delightful description of the personality and career of M. Venizélos, and "Lascaris" for interesting chapters on "Athens during the War," "The Spirit of Hellenism" and "Greek Women during the War." The last, however, is to be recommended for a fine description of the position of Greek women *before* the war. There are, also, good chapters on "The Future of Greater Greece" and "Agriculture." In the former the author says: "One result of the war has been to make the position of Greece secure as a nation in the Eastern Mediterranean." This is precisely what the Greeks wish *had been* accomplished, but which it really remains for the future to prove. It is still a question

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whether or not the Greek government can assimilate successfully the large territories acquired by the wars, and can create a prosperous and progressive state out of "Greater Greece." For the country is very poor, at present, industrially and agriculturally. Its resources are comparatively small; and, in many ways, the situation is so critical that only the most careful management and the employment of foreign capital on a large scale will make a successful issue possible.

Mr. Cassavetti has illustrated his volume with over fifty interesting photographs many of which were taken by the author, and several good maps. There is also an index; but no bibliography or citation of authorities.

N. DWIGHT HARRIS.

Imperial Germany. By PRINCE BERNHARD VON BUELOW, formerly Chancellor of the German Empire. Translated by Marie A. Lewenz. (New York: Dodd, Mead and Co. 1914. Pp. 342.)

The work is divided into two main parts entitled "Foreign Policy" and "Home Policy" respectively followed by a brief conclusion. In the first part the Ex-Chancellor deals with the development of Germany as a world power. He justifies Germany's entering world politics on the ground of necessity resulting from the growth of industry, the increase of population, and the development of foreign commerce. He declares that the international policy of Germany has not been contrary to Bismarck's continental policy, as critics have asserted, but an inevitable consequence for which Bismarck's policy paved the way. The growing importance of Germany's foreign commerce in turn necessitates a strong navy, not for attack but for protection. The German navy must, so Von Buelow asserts, be large enough so that no sea power could attack Germany "without grave risk." Beyond that it need not and should not go.

In connection with the growth of commerce and of the navy the Ex-Chancellor deprecates the attitude of suspicion on the part of England which is wholly without foundation so far as any thought of hostile action on the part of Germany is concerned. After considering at some length the important international relations between Germany and England the writer touches briefly on the relations between Germany on the one hand and the United States, Japan, the Triple Alliance, Turkey, Russia, and finally France on the other. He believes

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that the German policy with regard to France must always keep clearly in mind that France is not only not reconciled to the loss of Alsace Lorraine, but will remain irreconcilable as long as the slightest basis for hope survives that it may in some way, by some combination of powers or events win the lost territories back. In this connection the author states that he thinks the Triple Entente has been of actual benefit to Germany in that the leadership of England has restrained France and Russia from unfriendly acts.

The second part of the volume dealing with the home policy consists mainly in an analysis of the weaknesses and dangers of the German party system. The Germans, he says, are essentially lacking in political sense, and this is shown clearly in the unpractical character of the party programs. The stability of the Empire, declares the statesman, is still threatened by the spirit of separatism; not the state separatism of earlier days it is true, but the separatism of political creed. Too seldom is the doctrine of "Country before Party" given its proper emphasis. The author considers briefly the various parties, closing with an unqualified criticism of the Social Democrats and a program for dealing with them.

In a chapter dealing with the German economic policy he gives his views of the agrarian legislation, the tariff and other matters with which he was particularly concerned. The Polish question in the Eastern Marches receives considerable attention from the government's point of view.

In his conclusion Prince Von Buelow makes some general comments relative to Prussia and the Empire, the importance of the monarchical principle and the impracticability of parliamentary government, comments which sound as though they might have been made by the Hohenzollern ruler himself. There is much in the book that is new and all of it is interesting. It would not be fair to close without saying a word of praise for the translator who has successfully accomplished the difficult task of making a smooth readable rendition from the rather untranslatable German language.

HERMAN G. JAMES.

The Ownership, Tenure and Taxation of Land. By SIR THOMAS P. WHITTAKER. (New York, The Macmillan Company. Pp. xxx, 574.)

This book on the English land question is frankly controversial. It has been written as a contribution to the discussion of land taxation

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which has been going on vigorously in and out of Parliament since Mr. Lloyd George introduced his Budget of 1909, and it is intended as an answer to the arguments of Henry George, of Lloyd George, and of all the long train of speakers and writers who have of late been criticising the present order of things and who are insisting that private ownership of land tends to aggravate the uneven division of wealth, and to make the rich richer, and the poor comparatively, if not actually, poorer. In great part Sir Thomas Whittaker's book is a moderate and reasonable statement of the conservative position in regard to land and wealth. The author does not contend that the present land laws and the present system of taxation and rating are perfect. He acknowledges that there are imperfections and anomalies that need rectification. He points out also that the proposals, intended to relieve farmers and tenants of small houses, which have recently been put forward by Liberals, for lightening the burden of the local rates at the expense of the national Exchequer, would inure to the benefit of the landlord—that the landlord will obtain in rent all that the tenant can afford to pay, and that the tenant will continue to pay on the same scale whether the amount goes into the pocket of the landlord, or is divided in any proportion between the landlord and the tax gatherer. But taxation intended to force the sale of land by making it impossible for the owner to continue to hold it, Sir Thomas Whittaker can only see as dishonest confiscation. He traces the system of private ownership of land to the beginning of civilization. He believes that civilization is bound up in the system, and to him all considerations of morality, justice and convenience are served by the securing to a man of all the lands which has come into his possession.

As an answer to Lloyd George and his school, the chief shortcoming in Sir Thomas Whittaker's argument is that he fails to meet the case for the taxation of the increment value of land. He ignores entirely the increase of value which comes from the growth and needs of the community and which is in no way due to anything done for the land by its proprietor; or if he does not ignore it completely, he alludes to it only in order to throw scorn on the undeveloped land duty. He insists that a landlord would not sell land that he was holding for an increase in value on account of the undeveloped land duty if he were willing to forego the interest on the capital value of the land which would be much in excess of the duty laid on such land in the Budget of 1909. In all his arguments he apparently presupposes an abundant supply of land always available, and a consequent competitive value which is roughly fair to both owner and tenant. In a book written as a contribu-

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tion to a political controversy it is not unnatural that the author should make out the best case possible for his own side, and should minimize the arguments of his opponents. Many of Sir Thomas Whittaker's statements require more basis before they can be accepted as true, and his hasty generalizations do not command confidence from the impartial reader. In eighteen pages he demolishes all theories of early communal ownership, and proves to his own satisfaction that the recognition of land as private property was practically a universal condition of the development of every settled community since the world began. He covers the history of taxation in England—land taxes, income taxes and taxes on personal property and imports—in sixty-seven pages, and gives his views on the difficult question of common lands and enclosure in less than sixty pages. Other sections of the book cover the theory and incidence of local rating, the leasehold system, agricultural wages and problems of tenure and housing in town and country. None of these problems is too difficult for Sir Thomas to tackle, and each in turn is settled to his satisfaction and to the confusion of his opponents in a couple of chapters largely consisting of assertions for which he offers no authorities. As a manual for platform speakers on the Conservative side in the general election which must come before the end of 1915, Sir Thomas Whittaker's book may prove of great usefulness. It may be found to deserve a place alongside the controversial treatises of Henry George, Chiozza-Money or W. H. Mallock. As a serious and scholarly work covering the wide field which Sir Thomas P. Whittaker has preëmpted, the book cannot be ranked with such works as Pollock's Land Laws, Seebohm's English Village Community or Slater's English Peasantry and the Enclosure of Common Fields.

A. G. P.

Roman Imperialism. By TENNEY FRANK. (New York: The Macmillam Company. 1914. Pp. xiii, 365.)

Hard upon Professor Ferguson's *Greek Imperialism*, and quite in line with the trend of present day political thought, comes this first-rate book of Professor Frank of Bryn Mawr College on Roman Imperialism.

Professor Frank in a most compelling way sweeps his readers along the at times tumultuous, at times tortuous stream of Rome's political history, and lands them safe in the broad current of Caesarism. Some readers, however, may ask themselves whether the author has written

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an apology for Roman imperialism, or a refutation of the statements of other scholars as to the time when Rome first entered upon its imperialistic career. But in any event no one can doubt that this is a good solid piece of work, nor hesitate to give cordial praise to the author.

It took Rome one hundred years to realize its strength. By combining caution and cleverness in making treaties, in using buffer states for its advantage, and in fighting hard and often as well, by the year 290 B.C. Rome had gained control of all central Italy and had regained the prestige lost at the time of the Gallic capture of the city.

The expansion of Rome thus far was at the expense of kindred Italic tribes, and that Rome was able to consolidate so firm a confederation with them is due in part to their fighting shoulder to shoulder against Gauls and Greeks, who were foreigners, and in part to the excellent policy which the young democracy in Rome pursued in dealing with their fellow Italians. But this federal policy was put to the test when Sicily, a tribute-paying dependency of Carthage, fell to Rome in consequence of the First Punic War. Not only was it politically unthinkable at that time to bring into a confederation a distinct and foreign province, but "the temptation of the tribute was alluring," that, as Professor Frank says, "in the year 242 Rome secured her first subject province and set out on the devious road of imperialism."

Rome's success in the Second Punic War, brought two things into immediate prominence. The senate was again in control of affairs at Rome, and Rome had suddenly become a great power. And here the author has two intensely interesting if not entirely convincing chapters on sentimental politics and their consequences. Whether Philhellenism and the consequent realization of their own cultural unworthiness to become the arbiters of the destiny of the Mediterranean world made the Romans backward in pursuing a policy of further expansion, is a question which the reviewer does not feel himself competent to decide. But that Professor Frank brings out in the discussion two important facts is clear: first, that "the senate was ready to adopt from the Greeks the theory of spheres of influence," and second, that for a time "Rome was fighting neither for the sake of aggrandizement nor even with the more general purpose of removing potential rivals."

Next follow two chapters on reaction toward practical politics, and protectorate or tyranny, in which the author seems to make good

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his contention that the senate was in a position to extend Roman dominion had it wished to do so, but that its fear of a military hero made it adopt a policy toward the East that was vacillating, inefficient, and meddlesome. But is is quite clear also that there were opportunities for territorial acquisition, which were not seized.

Beginning with Chapter XII, The Foreign Policy of a Socialistic Democracy, Professor Frank strikes into that century from the Gracchi to Julius Caesar which several modern historians have been pleased to compare with the present history of the United States. Here the wide reading and the good judgment of the author are displayed in excellent fashion. The Gracchi and the democratic reformers, though not aggressive imperialists, with the best motives in the world stirred up the "instinct of acquisitiveness which was not far below the surface in the crowd, and ready by a simple transmutation to appear in the nationalized form of imperialism."

And now the pendulum of government, which had been swinging in century-long sweeps from senatorial to popular control, began to feel the telling weight of aggressive personalities, and to vibrate now in arcs only a decade long. First it swung to the democrats when the elder Gracchus enunciated the "recall" of a tribune, then back after the death of the younger Gracchus to the senatorial aristocrats; then to the democratic idol Marius, whose political star rose out of the chaos of senatorial bungling in Africa, and back to the aristocratic dictator Sulla; then the last short quivers toward Lucullus, Pompey and Cicero, until it came to a dead stop with the weight of Caesar.

The most important part of Professor Frank's book is his chapter entitled "Commercialism and Expansion." Here the author elaborates theories on which he has been working for years, and here he takes Mommsen and other of the great historians to task for certain of their statements. The evidence which he has brought together seems to justify his stand. The author shows that Rome had no early extensive maritime commerce, he shows that the early Roman treaties did not stipulate any special privileges for Roman traders, he shows that statements which say that a commercial lobby at Rome directed the foreign policies of the senate in the second century B.C., are conventional and untrue, and he takes many of the props out from under the claims that the wars of the second century B.C. were due to machinations of the knights engaged in Eastern trading enterprises. That it was commercial interests which finally made Rome reach out and

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take in the Eastern world is true, but it was not brought about until Pompey's army began its work in the service of the capitalists, and, in the words of the author, it is Pompey who "stands out as the first prominent figure in Roman imperialism."

RALPH VAN DEMAN MAGOFFIN.

Insurance and the State. By W. F. GEPHART. (New York: The Macmillan Company, 1913. Pp. 228.)

In this book the author attempts to determine, on both practical and theoretical grounds, whether the state should, in the interests of public welfare, monopolize the business of insurance and, if so, to what extent. With this problem in mind, he first discusses the general nature of insurance, and then goes on to describe each of the important varieties, and second, the advantages of state monopoly as compared with private enterprise. In life insurance, the state could not as a result of its monopoly increase the rate of interest or lower the rate of mortality. Any savings over the present system must therefore come from lessening the cost of securing the business or from greater economy in the home-office. The author points out that attempts to secure policy holders without solicitation has been a failure even with judicious advertising. As a result of a comparative study, he shows that there is no indication that large scale operations have any decided advantages in the way of reducing costs. As a result of his investigations and reasoning, Professor Gephart is led to the conclusion that state life insurance may be urged as a method of regulation, but not for the purpose of deriving revenue, or for bettering social conditions.

The problems connected with fire insurance are, the author believes, more complicated. Competitive rates in fire insurance are in the author's judgment impracticable and impossible. As to the case of railway charges, there is a large element of undetermined costs. The premiums obtained from insuring any building may be clear gain to the company. The building upon which it is issued may not be burned. Hence cut-throat competition and the resulting monopoly through the establishment of central rating bureaus. But central rating bureaus do not necessarily establish rates that are either reasonable as a whole or fair as between different classes of property. This situation has led to much unwise legislation. If the business of fire insurance is to remain in the hands of private companies, the author contends, the companies must cease "complaining about the burden of insurance

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legislation and begin a campaign of educating the public." The rates must also be made more equitable—either we must have state regulations or state monopoly.

Social insurance in the discussion includes industrial accident insurance, old age and invalidity insurance and unemployment insurance. Insurance, the author contends, has been in the past used chiefly by the propertied classes. This condition is beginning to be changed and must continue to change more rapidly. "The community is beginning to realize that the burdens of a particular class should be borne by the collective strength of the community. The idea that the strong should assist the weak is not only a result of the growth of humanitarian thinking, but it is also a result of a more correct thinking upon the problem of what constitutes a strong nation and an efficient industrial community" (p. 159). Social insurance must therefore be made as cheap as possible and in some cases at least compulsory. On this account, the author is inclined to think that state monopoly has so many advantages that it is likely to be generally adopted. In the United States, however, the system would be difficult of application on account of the state jurisdictions. And even if a state monopoly were adopted, a wide field for coöperation of voluntary mutual insurance societies should be preserved.

Dr. Gephart has presented the arguments for and against a state monopoly of insurance in a clear and forcible manner. Necessarily he does not arrive at any very definite conclusions. The reason is obvious. Our experience is so limited both in time and extent that the question of the relative merits of insurance conducted by private companies or by a state monopoly is as yet an open one.

MORRIS H. ROBINSON.

De la responsabilité civile des personnes publiques et de leurs agents en Angleterre, aux États-Unis et en Allemagne. By ROGER BONNARD. (Paris: Giard et Brière, 1914. Pp. 245.)

The responsibility of the state in municipal law for the wrongful acts of public officers, the remedies of the injured individual against such acts of administration, and the incidence of the loss as between the injured individual, the state, and the wrong-doing officer have been treated more fully by French jurists than by those of any other country. This may be due to the fact that the French council of state by its decisions has worked out such an elaborate system of state responsibility.

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To the valuable contributions of Teissier, Sourdois and Tirard on this subject there has now been added an important work by Professor Bonnard of Rennes in which the author undertakes to treat comparatively the English, American and German law, dealing with each country in a separate part of the book.

Professor Bonnard finds a considerable resemblance between the Anglo-American and German systems with respect to the remedies of individuals against wrongful acts of administration. While his conclusion appears to be approximately correct, he has passed over with but slight discussion one of the most important agencies, at least in American law, by which this remedy is achieved, namely, the judicial control over acts of administration. With the widening of the powers of administrative bodies, and the growing tendency in favor of government by commission, this question of judicial control is becoming increasingly important in American administrative law. The right to sue the state or public corporation is much more limited in Anglo-American than in German law, although in our law of municipal corporations some approximation may be noted to the continental distinctions of *actes de puissance publique* (*öffentliche Gewalt*, *actes de gouvernement*, public power, act of state), for which there is generally no governmental liability, and *actes de gestion* (*Fiskus*, proprietary or corporate acts), for which pecuniary liability is incurred. Theoretically Anglo-American law presents a considerable range of liability of officers for wrongful acts, but in practice various legal principles, such as immunity for the use of discretionary power, and for action under the authority of superiors or under a warrant fair on its face, have very greatly narrowed liability to individuals.

Germany offers a marked contrast to the Anglo-American system in that by the civil code (art. 839) officers have been compelled to assume a wide responsibility for their wrongful acts, practically identical with that of a private individual for his torts, which liability, by a recent imperial act and acts of Prussia and other states of the Empire, has now been placed at the charge of the state, although acting as a public power. The state retains a subrogated right of recourse against the wrongdoing officer, but the injured individual is now assured of a responsible defendant.

For the section on Anglo-American law Professor Bonnard has made use of the best literature as sources of information. The American student will hardly turn to the work for reference, but the French student, with the exception of the matter of judicial control over acts

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of administration, may be assured of a fairly accurate picture of one of the most intricate branches of American and English public law. To this law the greater part of the work is devoted. In presenting the subject of state and official liability in Anglo-American law the author has encountered the difficulty which everyone finds in presenting the subject in the form of a system, and he has had to rely largely on a presentation of quotations from and abstracts of leading cases. The "act of state" theory in English law, to which William Harrison Moore has made such a valuable contribution, appears hardly to have been noticed.

The discussion of the German system occupies only twenty-two pages, as against sixty-two pages for England and one hundred and thirty pages for the United States. The presentation of the German system in this small space was made possible by the fact that the German system has recently been reduced to statutory form, whereas the English and American system must be worked out from an involved and occasionally irreconcilable series of judicial decisions. In the appendix the author prints translations of the German imperial act in 1910, the Prussian act of 1909, and various portions of the laws of the states of Germany concerning the liability of the state when acting as public power.

The author finds in the United States a tendency to increase the responsibility of the state, in support of which he cites the recently enacted statutes of California and Wisconsin imposing a liability upon the state for errors of criminal justice, i.e., indemnity to wrongfully convicted persons. In an appendix the author translates the bill on this subject which was introduced in the 62d congress of the federal legislature.

Occasional misprints in the names and titles of authors, or cases, or works (e.g., p. 82) hardly detract from the merits of a work which presents a picture of one of the most intricate branches of Anglo-American law, the interest in which is increased by reason of its comparative treatment with the law of Germany.

EDWIN M. BORCHARD.

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Great Jurists of the World. Edited by SIR JOHN MACDONNELL, Fellow of the British Academy, and EDWARD MANSON, Secretary of the Society of Comparative Legislation, with an Introduction by VAN VECHTEN VEEDER, Judge of the United States District Court, New York. The Continental Legal History Series, Published under the Auspices of the Association of American Law Schools, Volume Two. (Boston: Little, Brown and Company, 1914. Pp. xxxii, 607.)

This book supplies a real need. In no other single volume can one find collected such a group of essays upon the great jurists of the world. The difficulties of such a collection are obvious, as in the present instance where the selections are by various authors. There are divergent points of view, a lack of balance and perspective, and great unevenness of execution. One is apt, also, to be disappointed at what are doubtless necessary omissions due to limitations of space and lack of material. The volume contains twenty-six essays upon the masters of jurisprudence from Gaius to Ihering, falling into four periods, the first representing the development of Roman law, the second, that of the Middle Ages and Renaissance, the third, that of the era of the Law of Nature, and the fourth, that of legislation and law reform. The classical period is represented by Gaius, Papinian, and Ulpian, Italy by Bartolus, Alciati, Gentili, Vico, and Beccaria, France by Cujas, Colbert, Montesquieu, and Pothier, Germany by Leibnitz, Pufendorf, Mittermaier, Savigny, and Ihering, Switzerland by Vattel, the Netherlands by Grotius and Bynkershoek, and England by Bacon, Hobbes, Selden, Zouche, Stowell, and Bentham. No one will quarrel with the inclusions, but it is a pity that limitations of space should have allowed Cujas and not Bodin or Hotman, Colbert and not D'Aguesseau or Domat, Bacon and not Coke, Pothier and not Burlamaqui, and, most singular of all, Bentham and not Austin.

With but two exceptions all the contributors are English; that upon Mittenmaier is by Goldschmidt and the single American essayist is Mr. Zane, who gives a sprightly but decidedly unsympathetic account of Bentham. Indeed, Mr. Zane denies that Bentham was a jurist at all, and dismisses the *Fragment upon Government* as "of no real importance." American readers may regret that no American jurist is included. Surely Marshall, and perhaps Kent, Story, and Edward Livingston are worthy of such distinguished company. As scholarly contributions, the essays by Mr. Coleman Phillipson, which have ap-

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peared in the *Journal of Comparative Legislation*, are by far the best in the book. These clear and critical analyses of the writings of Zouche, Pufendorf, Bynkershoek, and Vattel are extremely valuable. Indeed, the volume was well worth while if it had done no more than collect these essays of Mr. Phillipson. They are in striking contrast with the rather feeble effort of Mr. Bridgwater upon Beccaria. As a literary essay Sir Courtenay Ilbert's Romanes lecture upon Montesquieu adds interest to the volume if it does not vindicate Montesquieu's right to be called a jurist.

Editorial responsibilities seem to have rested easily in the preparation of the volume. The places where the various essays first appeared should have been noted, and some uniform bibliographical apparatus would have added considerable value to the book. A little more care might have been taken with the proof-reading, especially with dates, and the name of the teacher of Bartolus was Buttrigarius and not Buttigarius (p. 49).

JESSE S. REEVES.

Progressivism and After. By WILLIAM ENGLISH WALLING. (New York: Macmillan, 1914. Pp. 406).

Mr. Walling has rapidly come to the front as the most original of American Socialist writers. His latest book is an attempt to get at the economic bottom of the new politics, to discern the driving forces behind government regulation and social legislation, now so popular in our country. The author brings to his task a fund of knowledge gathered from many sources which he interprets with great keenness and insight. It is well to remember, however, that Mr. Walling is tethered to an idea—Socialism, and although he roams freely within a certain radius, he never gets beyond it.

The main thesis of the book is that society is divided not into three but into four layers: large capitalists, small capitalists, skilled workers, and common laborers; that at present the small capitalists and skilled workers are combining to fight large capital or the trusts on one hand and unorganized common labor on the other. In politics this struggle finds expression in the radical Democracy of Mr. Wilson, in the Progressive party of Mr. Roosevelt and in the Socialist party. Mr. Walling contends, and with some show of reason, that the Socialist party is not the champion of the proletariat but of the fairly well-to-do workingmen who are organized in trade unions; it is the latter whom Socialists are

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most anxious to court even to the point of modifying their revolutionary principles. The aim of political progressivism is government regulation of industry and social legislation and, as the author points out very acutely, President Wilson, in spite of his individualistic philosophy, has been forced by the drift of events to favor government control on the plea of "regulating monopoly."

Some of the most interesting chapters in the book are those dealing with the intra-class struggle in the ranks of labor. The author submits the Marxian prophecy of the final scene of capitalist society, when the propertied few will be confronted by the propertyless many, to a most destructive criticism; he proves conclusively that there is an inevitable tendency towards what he calls state capitalism, "a more scientific organization or re-organization of industry by the government" which will be of incalculable benefit to society in general and to the working classes in particular. Labor will be well cared for through social legislation which will establish the minimum wage, short hours, old age pensions, social insurance and better housing. In fact, extreme poverty may even be abolished by state capitalism, but class rule will remain; the small capitalists and union laborers will be the new tyrants to oppress the proletariat. The latter's only hope is Socialism. What Socialism means to Mr. Walling it is hard to say. He rejects Marxism and is rather shy of Syndicalism, although at times he seems to favor the latter. The author is evidently trying to create a new revolutionary philosophy better suited to present economic and political conditions, but as yet his views are somewhat vague. Perhaps this is due to a lack of style. Although certain parts of the book are clearly and forcibly written, the volume as a whole lacks finish. Mr. Walling is so anxious to clutch ideas that he sometimes strangles his sentences. He should give some of his days and nights to Walter Pater and some more to Anatole France.

J. SALWYN SCHAPIRO.

Systematische Rechtswissenschaft. (Zweite Verbesserte Auflage.) By R. STAMMLER, R. SOHM, &c. (Leipzig and Berlin: B. G. Teubner, 1913. Pp. 583.)

We have before us an important volume of an important series, testifying, if testimony were needed, to the vigor and up-to-dateness of German scholarship and bookmaking. The series, entitled "The Culture of the Present" (*Die Kultur der Gegenwart*), under the general

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editorship of Paul Hinneberg and published by Teubner in Leipzig, undertakes to present in sixty-one large octavo volumes a popular and yet scholarly and scientific résumé of the development and aims of modern intellectual and scientific culture. It embraces the humanities as well as the mathematical and natural sciences, history, law and political economy as well as the medical sciences, and the technical arts; in short, it gives a bird's eye view for the intelligent layman of all literature, philosophy, science and art. The important novelty in this valuable publication is that the contributors are experts in their respective fields, and the fields are very minutely subdivided. No one man is given an entire department to treat; and as every department of knowledge has a volume to itself, several contributors coöperate in one volume, each one taking that portion of the specific branch which is his particular specialty. The result is a popular presentation which is yet altogether authoritative and up to date. Every article opens with a historical and critical introduction, orientative in its nature, and is followed by a systematic presentation of the most important literature bearing upon the subject treated. The entire scheme is well worthy of emulation by the English speaking world; and the translation of the entire series would add much valuable literature to the reader who is dependent upon the English language for his mental pabulum.

The volume which interests us more particularly at present is a treatment in general and systematic outline of the science of jurisprudence. Naturally German law is at the basis of the treatment and foreign legal systems are referred to only very summarily now and then by way of comparison. The editor promises, however, that in late editions this defect will be made good and larger notice will be taken of other law than German, particularly as regards what the Germans call "Staatsrecht," that division of jurisprudence known in English as "Public Law," with the omission of criminal law and procedure. Such topics as international private and public law, and the philosophic discussion of the concept of law and legal justice are, of course, general in their application, and are at once of value to every student of law.

The arrangement of the treatment is as follows: Rudolph Stammler of Halle, a disciple in philosophy of Herman Cohen the Neo-Kantian leader of the Marburg school, heads the volume with a thoroughly German and abstract discussion of the essence of law and jurisprudence. Then follow the special divisions of the subject. Private law is divided into (1) Civil Law, treated by Rudolph Sohm, (2) Commercial Law, by Karl Gareis, and (3) International Private Law, by Ludwig von Bar.

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Then follow the Law of Civil Procedure by Lothar von Seuffert, Criminal Law and Procedure by Franz von Liszt, Ecclesiastical Law by Wilhelm Kahl, Civil Government by Paul Laband, Administrative Law by Gerhard Auschütz, Police and Education ("Polizei und Kulturpflege") by Edmund Bernatzik, International Law by Ferdinand von Martitz. The book closes with a brief article by Stammler on two problems of law which remain for the future to solve. We are further promised by the editor that in future editions some other legal topics of recent origin will be added, such as, for example, the law of insurance.

Stammler, whose book on the theory of justice (*Die Lehre von dem Richtigen Rechte*) we shall see in the near future in English translation as velume eight of the Modern Legal Philosophy Series, applies Kantian methods and conceptions to the philosophical treatment of law, and it is to be feared that the American lawyer will not easily take to such extremely abstract reasoning, the value of which in the concrete it is not easy to see except by the philosophical student who is not tainted with pragmatism.

An understanding of the meaning of law involves, according to Stammler, a general solution of the following three questions: What is law? Why is it that law as such justly demands obedience? And thirdly, what makes a law just? In opposition to the solutions of former scholars the Law of Nature theory, the historical school of Savigny and the materialistic conception of Marx and Engels, he sets down his own theory as the "Critical." The essence of this is that history and induction can never help us to find out what law is, or for that matter what anything else is. Unless we know to start with what we want, we shall never find it because we shall not know it when found. Accordingly we must know what we mean by law in order to study its history. The concept of law does not come from its history, but the reverse. The definition of law is therefore something *a priori* and universal. A proposition to be legal must satisfy certain conditions imposed upon it by the investigator. These conditions Stammler proceeds to develop, and he finds there are four. (1) *Law is a species of volition.* Its expresses a will and adjusts means to ends. In this way it is distinguished from the classifications of science which deal with cause and effect. (2) *Law is a volition which unites persons.* In other words, law is social. (3) *Law is sovereign.* It commands; it does not merely advise and persuade like the rules of honor and etiquette. And (4) *Law is inviolable.* It binds everyone who is subject to it, and as long as it is in force it binds also the lawgiver himself. Accordingly Stammler's

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definition is—*"Recht" ist das unverletzbar selbstherrlich verbindende Wollen"*—Law is volition which unites persons in a supremely authoritative and inviolable manner. It is interesting to compare this definition with that of Holland, which does not lay claim to philosophic universality and finality. Law, according to Holland, is "a general rule of external human action enforced by a sovereign political authority." Both definitions have the same aim, namely, to differentiate legal rules or law from the various other propositions of human invention and discovery. Stammler's method and terminology are more abstract and ultimate than Holland's. We cannot follow Stammler any further in his analysis except to say that upon the four elements in the above definition he bases what he calls, in Kantian fashion, the legal categories, and two legal problems. From the question "What is Law?" which has to do with the concept ("Begriff"), he then passes to the "Idee" of Law—another Kantian distinction—which is equivalent to the universal and unchangeable purpose served by law in the totality of human purposes. If we can formulate this we can answer the third question, What makes a law just? He finds this purpose in the "community of humanity," and from this he derives principles which are to guide us in judging a law as just or unjust.

Stammler's article makes very difficult reading even for the student of philosophy, and I am not at all sure of having always understood him. The rest of the book is fairly easy because more concrete. Sohm's essay in particular is illuminating, and extremely instructive. He gives a highly interesting and instructive sketch of German law from earliest times, gives an account of the reception in Germany of the Roman Corpus Juris Civilis based upon Justinian's code, the relations between this "common" German law and the particular laws of the various German states and territories, the influence of the Napoleonic Code, and the final adoption by the new German Empire of the German Civil Code in 1900. Highly instructive is also his characterization of the German Civil Code. It is based upon the German particular laws (the "Landrechte") and not upon the Roman Pandect law, which had been abolished. It was influenced in particular by the Prussian and Saxon codes of 1794 and 1863. The law of the Code is especially made to regulate *commerce*, upon which modern society depends. The *bona fide* acquirer or purchaser is given the preference over the one really entitled. Else commerce would be impossible. Another characteristic of the German Code is freedom and equality. Woman is on a par with man. It grants freedom of property, freedom of contract, freedom of

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testamentary disposition. It is social in its nature, and modern in its style.

Another essay that may be singled out for its interest and value to the lay reader is the article on Criminal Law by Franz von Liszt. The subject of crime and the criminal, the question of the criminal in society, because of crime and the relation of crime to punishment, the purpose of prisons and the treatment of the prisoner—all these matters and the various theories concerning them proposed by physicians, criminologists, psychologists and social scientists are so fascinating that a summary sketch by an expert makes instructive and delightful reading.

Bernatzik, in sketching the relation of the modern state to education and culture, gives the reader a good insight into the complex character of the modern state as distinguished from the medieval, and the gradual increase rather than diminution of the business of the state.

Without going into further description or criticism of the other articles in this important volume, all of which are valuable, we recommend it to the German reader who is interested in law and social science as giving expert information upon topics hardly to be found in English, and surely not brought together in one book, and treated with such authority.

ISAAC HUSIK.

The Passing of Empire. By H. FIELDING HALL. (Boston: Houghton, Mifflin Company. Pp. ix, 307.)

Mr. Fielding Hall writes on India from the depth of his own experience —the experience of a man who has lived with his eyes, his mind and his soul open. He offers no easy remedies for the evils that he diagnoses. He does not believe in what he calls "random drugs" for the really serious situation which confronts England in India. What he does is to point out the slow changes that have been transforming both governed and governors in India. He acknowledges what England has done for India in the past, and shows that the peace and good government introduced under British rule have given India the opportunity to grow and to develop. This very development leads to restlessness and discontent—symptoms which ought to be welcomed as tokens of growth. At the same time that India has thus begun to feel its nationality and its powers, the alien government imposed upon her by Great Britain has tended to become more mechanical, more formal and less sympathetic. Mistakes of understanding, originating inadvertently, have hardened

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into systems which have tended to crush out the incipient self-government which India possessed in her villages, and instead of preparing the Indians for a greater and greater share in their own national life, the British government has resorted to repression, which in its turn has resulted in dangerous agitation and discontent. Mr. Fielding Hall is of the opinion that much of the evil is due to the too rigid educational requirements from the men who enter the Indian civil service. Instead of reaching India as they used to do at 16, 17 or 18 years of age, when the boys were young and impressionable, the men go at 24 or 25, panopiled in theory and prejudice, and unable ever to understand or sympathize with races whom they have been taught to believe are so different from themselves as scarcely to share a common human nature. What is the way out for Great Britain and for India, Mr. Fielding Hall does not indicate; but this volume is invaluable for the man whether in London or Washington, in India or the Philippines, who has to deal with subject races.

A. G. P.

The Philippines, Past and Present. By DEAN C. WORCESTER. In two volumes, with 128 plates. (New York: The Macmillan Company, 1914.)

The appearance of a book on the Philippine Islands by the first living authority upon that neglected group ought to mark an epoch in the history of their occupation by America. Mr. Worcester may have disappointed some of his friends in the character of a work which has eagerly been awaited, for much is made of highly controversial matters and no controversy remains long a topic of interest to the multitude. A man of his temperament and strictly scientific turn of mind is not often inclined to discuss questions of policy with the magnanimity of a philosopher. Profoundly convinced of the justice of our determination to hold and develop the Philippines, and incensed by the tortuous methods of some of those who oppose that policy both there and in America, he has assembled all the data in the case and produced a brief for the defence. It is a strong presentation of his side and on the whole fairly disproves the main assertions of Judge Blount's *American Occupation of the Philippines*, but a certain bitterness of tone rather injures the effect of his argument before the jury of public opinion. Our control of the Islands was assumed as a matter of expediency, not of principle, and it is justified by the good accomplished rather

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than by any attempt to prove the consistency of our political theories. If Mr. Worcester thought it necessary to meet the allegations of his adversaries it seems a pity that he could not have published a volume to vindicate the policy for which he has stood and followed this by another describing a country about which he knows more than anyone else. The first might have satisfied his conscience, the other would certainly have gratified his fellow countrymen and have long remained the standard work upon the subject.

The chapters of this work that are not devoted to controversy contain a great deal of information about the people and upon the work done for their welfare under American administration. First in importance after the establishment of order in the Islands come the institution of a decent judicial system and the improvement of sanitary conditions. To the student of government it is always interesting to observe that the whole science of controlling human society resolves itself in practise into those two elemental necessities of giving the individual fair play in his community and of improving physical conditions. The Filipino, like all backward peoples, has enjoyed so little of the former as to require some time to understand its full meaning and application, but it is encouraging to be told that when supported by a supreme court that is above reproach native judges "seem usually to have been actuated by a desire to do full justice." In a country which has long been under the control of local bosses the main difficulty in administering law is one of getting the common people to understand their rights, and for assuring this a long course of education in elementary schools is necessary. The paternalism which insists upon this education before it allows full independence appears to be a surer road to democratic institutions than the immediate application of democratic forms to an ignorant proletariat. The necessity of enforcing sanitary regulations is still more obviously a benefit that government by experts will recognize better than one by unskilled natives. No argument is needed to support this unless we are prepared to admit that man has no business to interfere with the operations of nature, but the importance of recently acquired scientific knowledge to the whole problem of government is wonderfully emphasized in following the author's account of what has been done during a decade in the Philippines. In another generation we shall perceive that the physician and the engineer have had as much to do with our success in this endeavor as the soldier and the statesman in the British conquest of India.

The impressive story of American energy in establishing an educational

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system, building roads and railways and redeeming the non-Christian tribes from savagery has been told in other books on the Philippines, but nowhere with the authority of such intimate knowledge as here. The chapter on slavery and peonage exhibits the peculiar difficulties that beset any attempt to remove an iniquitous institution so long as there remains the element in society that can profit by its continuance. The *cacique*, or boss, of the old régime resents foreign interference with his ancient custom of securing labor for nothing, and, while denying that any slaves or peons remain, his influence on the assembly is sufficiently strong to prevent legislation penalizing forced labor. The author's estimate of the legislative body is not high; "The treatment accorded it by the Philippine Assembly," he says, "conclusively demonstrates the irresponsibility of that body, and its unfitness to deal with great questions which vitally effect the common people." Until the franchise can be given to all adults alike the Assembly is naturally in the hands of the old *cacique* class and their interests are opposed to the *taos*. "Serious obstacles are therefore thrown," we are told, "in the way of poor people who desire to become owners of land," because with a self-supporting peasantry the peon would soon cease to exist. For the light thrown upon such problems as these Mr. Worcester's book deserves high praise.

F. W. WILLIAMS.

The Orient Question, To-day and To-morrow. By PRINCE LAZAROVICH-HREBELIANOVICH. Illustrated with maps. (New York: Duffield and Company, 1913. Pp. 335.)

The outbreak of the third Servian war since October, 1912, gives special point and significance to this contribution by an enthusiastic Serb. Plenty of books have been written about the Eastern question and the special interests of Austro-Hungary; but the Servians as a people have been rather inarticulate. As the country has progressed, however, its educated men have come to understand the necessity of stating their case to the world at large. This volume, prepared on the basis of lectures delivered at the Leland Standford University, is a statement of the international significance of Servia; and at the same time a plea for knowledge of the real conditions of the country.

Prince Lazarovich first of all seizes on the importance of the Servian plateau as a station in the natural land route between the Orient and the Occident. The point is well taken, for links of railway are now

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forging which will, within a few months, complete a trunk line from the Persian Gulf to central Europe; and the existing railways from Constantinople through Sofia, Nisch and Belgrade to Vienna, occupy the only favorable all-rail connection. The Servian plateau, which is not very lofty, and is much beset by mountain chains, is the home of the only community of the thirty million Slavs west of Russia which has a government of its own, except its little brother Montenegro. That is of course one of the reasons why Austria has recently forced a war upon Servia. It is to prevent control by a rising power of the south-eastern outlet of the dual empire.

Of the Servians as a capable people the author draws a convincing picture. He believed in his countrymen before the battle of Kumanovo; in 1912 and before the fierce struggles of 1913 with the Bulgarians, which proved to Europe their capacity as soldiers. Prince Lazarovich's praise of the land system and social structure of the Servians is borne out by the facts. It is one of those happy countries in which there are few or no large landed estates, but an intelligent land-owning peasantry. Yet it is a striking proof of the rapidity of changes in that country that a plan for the political reorganization of the Balkans which seemed to the author of this book practical two years ago, has been put out of possibility by the recent wars in the peninsula.

In his study of the general European complications, and particularly of the supposed intention of Austria and Germany to wrest the dominion of the Mediterranean from Great Britain, the author is less successful. It is a little difficult for him to make out his thesis that "the Monroe Doctrine brings the United States in the concerns of the European family of nations." Nevertheless, to the reader who desires to understand more clearly the involved relations of Europe and Turkey with the Balkan situation, the book will offer satisfactory information and discussion, and should be on the shelf of timely volumes.

ALBERT BUSHNELL HART.

The Rise and Fall of the High Commission. By ROLAND G. USHER. (Oxford: Clarendon Press, 1913. Pp. 380.)

At the time of its abolition in 1641 the high commission was a stated law court with regular procedure for the trial of cases between contesting parties. As such it had been in evidence with increasing distinctness since the middle of Elizabeth's reign, at which time it became apparent that commissions of ecclesiastical inquiry were becoming transformed

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into permanent ecclesiastical courts. The origin of the high commission, therefore, lies in the committees appointed by Henry VIII for the establishment of the royal supremacy, and to the historical development of this practice between 1535 and 1580 Mr. Usher devotes his earlier chapters.

From the beginning there is evidence of opposition to the commission. When it became a regular court this opposition was voiced by the common-law judges who saw in the ecclesiastical tribunal a dangerous rival in jurisdiction. The weapons employed were injunctions ("prohibitions") against the verdicts of the high commission, and the conflict was particularly violent in the time of Coke. With him, however, the opposition on legal and judicial grounds came practically to an end, and the Puritan resistance of the final thirty years was based on the belief that the objects of the commission were contrary to the law of God. At the same time illegality and tyranny were the grounds upon which a Puritan parliament abolished this ecclesiastical court.

The investigation of this subject is much hampered by the fragmentary condition of the records. Registers, or official reports on the nature of the cases, have been lost, and even the few dockets are merely formal minutes of attendance and procedure. From these, however, there is evidence to show that the popular view of the court as an engine of tyranny must undergo some revision. It appears to have been a tribunal much frequented by suitors against other parties, so that about eighty per cent of the cases found were of this class. Of the remainder the greater part were undertaken *ex officio* on the request of poor persons, or were applications for enforcement by some bishop, leaving about five per cent of the cases to the actual initiative of the commission. The possibilities of tyranny were, therefore, greatly restricted. The treachery of figures, however, is encountered in the estimate of the popularity of the court. If the cases pending were sometimes over a thousand at a time, the five per cent would give considerable opportunity for persecution if the commission were so inclined.

Historical students are much indebted to Mr. Usher for the chapters which describe the actual workings of the commission, both in its earlier history and in the period of the Puritan conflict. The supposition that the records as well as the court were purposely obliterated is only tentatively suggested and not convincing. In general the author has used his materials with great modesty and effectiveness.

J. M. VINCENT.

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RECENT GOVERNMENT PUBLICATIONS OF POLITICAL INTEREST

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UNITED STATES

American Seamen and Safety of Life at Sea, Welfare of. Report House of Representatives committee on the Merchant Marine and Fisheries (to accompany S. 136). 1914. 31 p. 8°. *House. Committee on Merchant Marine and Fisheries.* (H. Rpt. 852.)

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Anti-trust Legislation. Conference report on H. R. 15657. Submitted in lieu of report (S. Doc. 583) made on September 23, 1914, withdrawn for corrections. 1914. 12 p. 8°. (S. Doc. 585.)

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Chinese, Admission of, Treaty, laws and rules governing the. Rules approved January 24, 1914. (2d ed.) 1914. 73 p. 8°. *Department of Labor, Bureau of Immigration.*

Conditions in the Coal Mines of Colorado. Hearings before a sub-Committee of the Committee on Mines and Mining. H. of R., 63d, 2d, pursuant to H. Res. 387. Vol. ii (complete). 1914. 1479–2940. 8°. *House of Representatives. Committee on Mines and Mining.*

Constitution, Jefferson's Manual and Rules of the House of Representatives, . . . with a digest of the practice. 63d Congress, 2d sess. By Bennet C. Clark. 1914. 672 p. 12°. *Congress.* (H. Doc. 974.)

Consular Service, American. Article . . . By J. J. Slechta. 1914. 7 p. 8°. (S. Doc. 541.)

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Convict Labor, Federal and State Laws, Relating to. 1914. 238 p. 8°. (S. Doc. 494.)

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International Peace Conferences. The first and second. Held at the Hague, 1899 and 1907. 1914. 215 p. 8°. 63d Congress, 2d sess. (H. Doc. 1151.)

Interstate Trade. Hearings before the Committee on Interstate Commerce U. S. Senate. 63d Congress, 2d sess. on bills relating to trust legislation. Vol. i. 1914. 660 p. 8°. U. S. Senate. *Committee on Interstate Commerce.*

Mothers' Pensions in the United States, Denmark and New Zealand, Laws relating to. 1914. 102p. 8°. Dependent children series No. 1. Bureau Publication No. 7. *U. S. Dept. of Labor. Children's Bureau.*

Municipal Ownership of Street Railways in the District of Columbia. Report (to accompany H. R. 15191). 1914. 35. 16 p. *Committee on the District of Columbia.* (H. Rpt. 917.)

Neutrality, American. An appeal by the President of the United States to the citizens of the Republic, requesting their assistance in maintaining a state of neutrality during the present European war. 1914. 4 p. 8°. (S. Doc. 566.)

Nomination of Thomas D. Jones. Hearing before the Committee on Banking and Currency. U. S. Senate, 63d Congress, 2d sess. . . . 1914. 155 p. 8°. (S. Doc. 545.)

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Public Utilities Commission of the District of Columbia. Annual report of (first) 1913. 1914. 181 p. 8°. (H. Doc. 1110.)

Railway Mail Pay. Preliminary report and hearings of the Joint Committee on Postage on second-class mail matter and compensation for the transportation of mail. . . . January 24, 1913 to April 3, 1914. 1914. 1587 p. 8°. *Congress. Joint Committee on Postage on second-class mail matter, etc.*

The People's Law. Address delivered at Columbus, Ohio, March 12, 1912, upon invitation of the Constitutional Convention. By the Hon. William Jennings Bryan. 1914. 16 p. 8°. (S. Doc. 523.)

The Treaty Making Power under the Constitution. Article . . . by Henry Saint George Tucker. 1914. 11 p. 8°. (S. Doc. 539.)

Unlawful Restraints and Monopolies. Report from Committee on the Judiciary. (to accompany H. R. 15657.) 83 p. 8°. Rept. No. 698. *U. S. Senate. Committee on the Judiciary.*

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Note: Vol. 1. Report of the Commission.
Vol. 2. Hearings before Commission.

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Coal Strike Zone of Colorado. The military occupation of the, by the National Guard, 1913-1914. Report of the commanding general to the Governor for the use of the Congressional Committee. Denver, 1914. 119 p. 8°.

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Maine Register, State Year Book and Legislative Manual, No. 45. July, 1914. . . . . Prepared pursuant to orders of the legislature. Compiled and published by Grenville M. Donham. 1914. xvi. 1070, xxxvii p. 16°.

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State Conference on Taxation. First and second conference, 1911-12; (third and fourth conference 1913-14). Addresses and proceedings. Albany. 2 v. 8°.

Note: 1st Conference held at Utica, Jan. 12-13, 1911. E. E. Woodbury, chairman.
2nd Conference held at Buffalo, Jan. 9-11, 1912. E. E. Woodbury, chairman.
3rd Conference held at Binghamton, Jan. 28-29, 1913. T. F. Byrnes, chairman.
4th Conference held at Syracuse, Jan. 21-23, 1914. T. F. Byrnes, chairman.

Taxation. Third and fourth State Conference on, 1913, 1914. 1913. 544 p. 8°. *State Conference on Taxation.*

Uniform System of Accounts for Second-Class Cities. The form of the budget, the procedure to be followed in budget making, and the classification of appropriations. 1912. 1913. 85 p. 8°. *Comptroller.*

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Compulsory Voting and Absent Voting with Bibliographies. By W. T. Donaldson. Leg. Reference Dept. Bull. No. 1, April 9, 1914. 35 p. 8°. *Legislative Reference Department.*

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Education in Vermont, A Study of. Montpieler. 1914. 241 p. 8°. *Commission to investigate the educational system and conditions of Vermont.*

Note: Prepared by the Carnegie foundation for the advancement of teaching at the request of the commission.....1914

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Denkschrift der K. K. Statistischen zentralkommission zur feier ihres fünfzig jährigen Bestandes. Wien. 1913. 228 p. 4°. *K. K. Statistischen Zeutralkommission.*

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BOLIVIA

Memoria gue presenta el ministro de relaciones exteriores y Culto. . . . 1913. La Paz. 1913. 133, cxxxiv p. 4°. *Ministro de relaciones exteriors y culto.*

Note: Anexos. 1–108 p. contains treaties made with foreign powers during the year 1913.

CANADA

International Waterways Commission, 1905-1913. Compiled reports of the. Ottawa. 1914. 1224 p. 8°. *Minister of Public Works.*

Note: "This volume is a compendium of all memoranda and reports issued by the Canadian and American sections of the International Waterway Commission from their first appointment, in 1905, to the end of the calendar year 1913."

GREAT BRITAIN

Census of England and Wales, 1911. . . . Vol. 10. Occupations and Industries. Pt. 1. 1914. 867 p. fol. (cd. 7018). Price 8s. *Census Office.*

Census of India, 1911. General report of the Calcutta. 1914. 450 p. fol. (cd. 7377). Price, 4s. 8d. *India Census Commissioner.*

Church in Wales. First report from the select committee of the House of Lords on matters affecting the, with the proceedings of the committee, minutes of evidence and appendices. 1914. 166 p. fol. H. of L. (238). Price, 1s. 5d.

European Crisis. Correspondence respecting the. (The "White Paper".) 1914. 77 p. fol. (cd. 7467). Price 9d.

Insurance of British Shipping in Time of War. Report of a sub-committee of the Committee of Imperial Defence on the. 1914. 20 p. fol. (cd. 7560). Price, 2½ d.

National Heath Insurance. Report for 1913-14 on the administration of. 1914. 582 p. 8°. (cd. 7496.) Price 2s. 5d. *National Health Insurance Joint Committee.*

Rupture of Diplomatic Relations with the German Government. Despatch from His Majesty's Ambassador at Berlin respecting the. (In continuation of cd. 7467.) 1914. 5 p. fol. (cd. 7445). Price 1d.

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SOUTH AFRICA

Native Grievances Inquiry. Report of the 1913-14. Cape Town. 1914. 129 p. fol.

Note: Inquiry relates to general working conditions of natives in the mines of the Witwatersrand.

VENEZUELA

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